

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

PREPARED BY:
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"Serving Illinois Since 1970"
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CITY OF HERRIN, ILLINOIS

ORDINANCE NO. 17-2019

**AN ORDINANCE ADOPTING THE
REVISED CODE OF ORDINANCES
FOR THE
CITY OF HERRIN, ILLINOIS**

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

THIS 12TH DAY OF AUGUST, 2019

**Published in book form by authority of the City Council of the City of
Herrin, Williamson County, Illinois this 12th day of August, 2019.**

ORDINANCE NO. 17-2019

AN ORDINANCE ADOPTING THE REVISED CODE OF ORDINANCES OF THE CITY OF HERRIN, WILLIAMSON COUNTY, ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HERRIN, WILLIAMSON COUNTY, ILLINOIS, THAT:

SECTION 1: Amendment. The following exhibit shall adopt "**The Revised Code of Ordinances**" of the City of Herrin, Williamson County, Illinois" and 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ordinances, code provisions or pertinent portions thereof in effect at the time this ordinance takes effect are hereby repealed.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 from and after its passage, approval, and publication in pamphlet form as provided by law.

SECTION 4: Passed this 12th day of August, 2019 by the City Council of the City of Herrin, Williamson County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.

/s/ Shelly Huggins
SHELLY HUGGINS, CITY CLERK
HERRIN, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT
Sheila Ahlgren					
David Shoemake					
Randy Crompton					
Paul York					
Steve Miller					
Scott Kinley					
Bill Sizemore					
Marilyn Ruppel					

Approved by the Mayor of the City of Herrin, Williamson County, Illinois, this 12th day of August, 2019.

/s/ Steve Frattini
STEVE FRATTINI, MAYOR
HERRIN, ILLINOIS

ATTEST:
/s/ Shelly Huggins
SHELLY HUGGINS, CITY CLERK
HERRIN, ILLINOIS

(SEAL)

Commented [JJK1]:

CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF WILLIAMSON) **ss. CITY CLERK'S OFFICE**
CITY OF HERRIN)

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

In witness whereof, I have set and affixed the Corporate Seal of the City of Herrin, Illinois, this 12th day of August, 2019.

/s/ Shelly Huggins _____
SHELLY HUGGINS
CITY CLERK
HERRIN, ILLINOIS

(SEAL)

HERRIN, ILLINOIS

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>
1-55	Election	01/10/55	7-57	Salaries	05/27/57
2-55	Civil Defense	1955	8-57	Traffic	06/24/57
3-55	Appropriation	05/23/55	9-57	License Fees	07/08/57
4-55	Salary	1955	10-57	Board – Fire & Police	1957
5-55	Sanitary District	06/13/55	11-57	Amends #7-56; 8-56	1957
6-55	Water Bonds	07/25/55	12-57	Ch. 5 Code	1957
7-55	Sales Tax	1955	13-57	Appropriation	08/12/57
8-55	Real Estate	08/01/55	14-57	Police Pension Board	1957
9-55	Liquor Control	1955	15-57	Firemen Pension Board	1957
10-55	Tax Levy	1955	16-57	Water Department	1957
11-55	Election	1955	17-57	Water System	08/26/57
12-55	Traffic	10/03/55	18-57	Sewer	08/26/57
13-55	Salaries	1955	19-57	Tax Levy	1957
14-55	Liquor	1955	20-57	Vacation	1957
			21-57	Traffic	10/14/57
1-56	Dangerous	01/09/56	22-57	Traffic	10/15/57
2-56	Vacating Alley	1956	23-57	Water Bonds	1957
3-56			24-57	Repeals #23-57	1957
4-56			25-57	Water Bonds	12/30/57
5-56	Veh. Lic. (Void)	1956			
6-56	Election	04/09/56	1-58	Licenses	02/10/58
7-56	Water/Sewer Bonds	04/30/56	2-58	Annex	1958
8-56	Water/Sewer Bonds	04/30/56	3-58	Traffic	03/26/58
9-56	Election	05/04/56	4-58	Truck Sale	1958
10-56	Water-Flouride	1956	5-58		
11-56	Traffic	05/21/56	6-58	Library	04/14/58
12-56	Water Bonds	05/31/56	7-58	Plat Approval	1958
13-56	Appropriation	06/11/56	8-58	Vacating Street	1958
14-56	CIPS	07/16/56	9-58	Vacating Street	1958
15-56	CIPS	07/16/56	10-58	Library Bonds	05/26/58
16-56	Traffic	07/16/56	11-58	Election	07/14/58
17-56	Traffic	07/23/56	12-58	Appropriation	07/14/58
18-56	Traffic	08/13/56	13-58	Election	07/14/58
19-56			14-58	City Lakes	07/14/58
20-56	Bonds	10/08/56	15-58	Traffic	07/23/58
			16-58	Election	08/11/58
1-57	Traffic	1957	17-58	Tax Levy	1958
2-57	Salaries	1957	18-58	Health	09/11/58
3-57	Traffic	1957	19-58	Streets	09/08/58
4-57	Traffic	04/08/57	20-58	Employees Salary	1958
5-57	Salaries	1957	21-58	Sewers	11/10/58
5-57A	Amends #5-57	1957	22-58	Election	1958
6-57	Traffic	05/27/57	23-58	Plat Subdivision	1958

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>
24-58	Library	12/22/58	16-60	Annex	1960
1-59	Election	1959	17-60	Traffic	08/26/60
2-59	Traffic	02/23/59	18-60	Appropriation	10/17/60
3-59			19-60	Pension	10/24/60
4-59	Traffic	03/27/59	20-60	Parking	11/30/60
5-59			21-60	Election	11/28/60
6-59	Water Bonds	1959	22-60	Vehicle Parking	12/28/60
7-59			1-61	Plan Comm. Est.	01/09/61
8-59			2-61	Election	01/09/61
9-59	Traffic	05/01/59	3-61	Sewer Bonds	1961
10-59	Traffic	06/08/59	4-61	Election	1961
11-59	Civil Defense	1959	5-61	Stop Intersection	03/27/61
12-59	Appropriation	07/12/59	6-61	Plumbing Code	04/24/61
13-59	Liquor	1959	7-61	Parking Bonds	03/27/61
14-59	Tax Levy	1959	8-61	Salaries	1961
15-59			9-61	Appropriation	06/26/61
16-59	Traffic	10/02/59	10-61	Traffic	06/28/61
17-59	Curfew	1959	11-61	Sales Tax	07/24/61
18-59			12-61	Stop Signs	08/21/61
19-59	Traffic	11/13/59	13-61	Repeals #8-61	1961
20-59	Traffic Parking	11/13/59	14-61	Tax Levy	1961
21-59	Traffic	12/28/59	15-61	Radio Oper	1961
22-59			16-61	Personnel	1961
23-59			17-61	Vacating Alley	1961
24-59			18-61	Licenses	09/15/61
25-59			19-61	Police Dept.	1961
26-59			20-61	Vacating	1961
27-59			21-61	Cemetery	1961
28-59			22-61	Traffic	12/11/61
29-59			23-61	I.M.R.F.	1961
1-60	Traffic	01/25/60	1-62	City Council	N.P.
2-60	Traffic	01/27/60	2-62	Salary	1962
3-60	Police Mag.	1960	3-62	Parking	02/16/62
4-60	Annex	--	4-62	parking	03/12/62
5-60	Election	04/25/60	5-62	Traffic	03/12/62
6-60	Annex	04/25/60	6-62	Plan Comm.	03/12/62
7-60	Traffic	1960	7-62	Vacating Streets	1962
8-60	City Plan Comm.	--	8-62	Alcohol	1962
9-60	Election	06/13/60	9-62	Traffic	1962
10-60	Traffic Reg.	06/29/60	10-62	Salaries	1962
11-60	Appropriation	07/11/60	11-62	Liquor	06/11/62
12-60	Election	1960	12-62	Rubbish	06/25/62
13-60	Employees	1960	13-62	Parking Meters	1962
14-60	Tax Levy	1960	14-62	Parking Fees	1962
15-60	Traffic	08/08/60	15-62	Traffic	1962

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>
16-62	Appropriation	07/23/62	12-64	Cable TV	10/10/64
17-62	Stop Inter.	1962	13-64	Traffic	10/24/64
18-62	Tax Levy	1962	14-64	Tax Levy	1964
19-62	Personnel	1962	15-64	Traffic	09/28/64
20-62	Vacation	1962	16-64	Cable TV	10/12/64
21-62	Liquor	1962	17-64	Vehicle Fee	10/19/64
22-62	Traffic	09/13/62	18-64	Water Fees	10/26/64
23-62	Fire Dept.	1962	19-64	Taxicabs	10/26/64
24-62	Election	1962	20-64	Election	1964
25-62	Meadow Dale Plat	1962			
			1-65	Water Supply	1965
1-63	Elections	1963	2-65	Sewer	1965
2-63	Flammable Liquids	1963	3-65	CIPS	1965
3-63	Personnel	1963	4-65	CIPS	1965
4-63	Parking Violations	05/29/63	5-65	Amends #17-57	1965
5-63	Flammable Storage	05/13/63	6-65	Cable TV	1965
6-63	Maint. Dwellings	1963	7-65	Election	03/08/65
7-63	Appropriation	07/08/63	8-65	Mobile Homes	1965
8-63	Stop Inter.	07/08/63	9-65	Mayor Salary	1965
9-63	Annex	1963	10-65	Custodian	1965
10-63	Plat – Melody Acres	1963	11-65	Fiscal Year (May 1)	1965
11-63	Salaries	1963	12-65	Water Supply	1965
12-63	Election	1963	13-65	Vacation Alley	06/14/65
13-63	Tax Levy	1963	14-65	Appropriation	07/26/65
14-63	Traffic	1963	15-65	Meetings	07/65
15-63	City Plan Comm.	1963	16-65	Tax Levy	1965
16-63	Election	08/26/63	17-65	Salaries	1965
17-63	Water	09/26/63	18-65	Salaries	1965
18-63	Parking Comm.	10/02/63	19-65	Buildings	11/16/65
18-63A	Sale of Property	11/12/63	20-65	Election	11/16/65
19-63	Water Supply	11/12/63	21-65	Garbage Tax	12/07/65
20-63	Liquor	11/25/63	22-65	Fund Transfer	1965
21-63	Fire – Outside	11/25/63	23-65	Meetings	1-65
22-63	Water System	12/02/63			
23-63	Water Bonds	12/18/63	1-66	Buildings	01/10/66
24-63	Parking Meters	12/23/63	2-66	Zoning Comm.	03/28/66
			3-66	Bd. Of Police, etc.	04/25/66
1-64	Sewer	01/27/64	4-66	Admin. Salary	05/23/66
2-64	Sewer	02/24/64	5-66	Traffic	06/13/66
3-64	Traffic Ord.	02/24/64	6-66	Annex	06/13/66
4-64	Vacating	02/24/64	7-66	Fed Housing	06/13/66
5-64	Firemen	03/23/64	7-66A	Funds Inv.	06/13/66
6-64	Fire Code	03/23/64	8-66	Traffic	06/27/66
7-64	Traffic	03/25/64	9-66	Water	06/27/66
8-64	Salary	04/27/64	10-66	CIPS	07/05/66
9-64	Bldg. Permit Fee	07/29/64	11-66	Water Rate	07/11/66
10-64	Traffic	10/10/64	12-66	Appropriation	07/25/66
11-64	Appropriation	1964	13-66	Water Rates	08/08/66

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>
14-66	Water	08/08/66	1-69	Election	01/13/69
15-66	Water System	08-08-66	2-69	Traffic	01/27/69
16-66	Tax Levy	09/12/66	3-69	Election Registration	01/27/69
17-66	Zoning	09/12/66	4-69	Vacation – Policy	01/27/69
18-66	Subdivision	09/26/66	5-69	Vacate Alleys	03/10/69
19-66	Missing	1966	6-69	Traffic	04/28/69
20-66	Water Rate	1966	7-69	Traffic	04/28/69
21-66	Zoning	1966	8-69	City Council	04/28/69
22-66	Zoning (Repeals)	10/24/66	9-69	Bd/Pol/Fire Comm.	05/22/69
23-66	Election	11/14/66	10-69	Police Salary	06/12/69
			11-69	Streets	06/09/69
1-67	Election	01/09/67	12-69	Zoning	06/23/69
2-67	Water Bonds	03/13/67	13-69	Liquor	06/23/69
3-67	CIPS	03/13/67	14-69	Traffic	07/14/69
4-67	Appropriation	1967	15-69	Traffic	07/28/69
5-67	Sales Tax	08/01/67	16-69	Appropriation	07/28/69
6-67	Sales Tax	08/01/67	17-69	R.O. Tax	07/28/69
7-67	Traffic	07/24/67	18-69	M.S.O. Tax	07/28/69
8-67	Tax Levy	08/28/67	19-69	Rates – Taxes	07/28/69
9-67	Liquor	08/28/67	20-69	Zoning	07/28/69
10-67	Vacate Street	08/28/67	21-69	Trailers	08/11/69
11-67	Annex	09/11/67	22-69	Cable TV	1969
12-67	Vacate Street	10/23/67	23-69	Tax Levy	1969
13-67	Weeds	10/23/67	24-69	Cable TV	08/25/69
14-67	Private Parking	01/13/67	25-69	Traffic	09/08/69
15-67	Parking Bonds	12/21/67	26-69	Salaries	10/13/69
15-67A	Salary	12/21/67	27-69	Salaries – Police	10/13/69
16-67	Salary	12/21/67	28-69	Salaries – Fire	10/13/69
			29-69	Salaries – Admin.	10/13/69
1-68	Motor Vehicle Bonds	02/12/68	30-69	Employees	10/13/69
2-68	Traffic	02/26/68	31-69	City Attorney	10/13/69
3-68	Fire Calls	03/11/68	32-69	Budget Officer	10/13/69
4-68	Traffic	03/15/68	33-69	Fire Dept.	1969
5-68	Annex	03/11/68	34-69	Garbage	1969
6-68	Voter Registration	03/25/68	35-69	Load Limit	11/24/69
7-68	Abandoned Vehicles	03/25/68			
8-68	Salaries	04/08/68	1-70	Fire Dept.	02/23/70
9-68	S.O. Tax	04/08/68	2-70	Fire Code	02/23/70
10-68	Civil Emergency	04/22/68	3-70	Nat'l. Bldg. Code	02/23/70
11-68	Vacate Alley	05/27/68	4-70	Electrical Code	02/23/70
12-68	Taxes	07/08/68	5-70	Plumbing Code	02/23/70
13-68	Appropriation	07/22/68	6-70	Housing	02/23/70
14-68	Tax Levy	09/09/68	7-70	Housing	02/23/70
15-68	Water Rates	09/09/68	8-70	Zoning	02/23/70
16-68	Election	10/28/68	9-70	Zoning	02/23/70
17-68	Liquor	11/25/68	10-70	Vacate Alley	02/23/70
18-68	Water	--	11-70	Not Passed	
19-68	Liquor	11/25/68	12-70	Zoning	03/23/70

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>
13-70	Liquor	03/23/70	1-71	Election	01/08/71
14-70	Employment	03/23/70	2-71	Zoning Bd./Admin.	01/25/71
15-70	Salaries	04/13/70	3-71	Streets	03/09/71
16-70	Zoning	04/27/70	4-71	Zoning	03/22/71
17-70	Zoning	04/27/70	5-71	Salaries	04/26/71
18-70	Zoning	04/27/70	6-71	City Atty – Salary	04/26/71
19-70	Sewer Fees	04/27/70	7-71	Janitor	04/26/71
20-70	Water Connect Fee	04/27/70	8-71	Traffic	04/26/71
21-70	Water Dept.	04/27/70	9-71	Zoning	04/26/71
22-70	Traffic	04/27/70	10-71	Zoning	04/26/71
23-70	Budget Adopted	04/27/70	11-71	Business	05/10/71
24-70	Salary – Admin.	05/11/70	12-71	Zoning	05/24/71
25-70	Salary – Police	05/11/70	13-71	Zoning	05/24/71
26-70	Salary – Fire	05/11/70	14-71	Traffic	06/28/71
27-70	City Attorney	05/11/70	15-71	Zoning	06/28/71
28-70	Budget Officer	05/11/70	16-71	Traffic	07/12/71
29-70	Traffic	05/11/70	17-71	Traffic	07/12/71
30-70	Admin. – Comm.	05/25/70	18-71	Traffic	07/12/71
31-70	Vacation – Alley	05/25/70	19-71	Traffic	07/26/71
32-70	Zoning	05/25/70	20-71	Zoning	07/27/71
33-70	Zoning	05/25/70	21-71	Zoning	07/26/71
34-70	Traffic	06/08/70	22-71	Annex	08/01/71
35-70	Traffic	06/08/70	23-71	Tax Levy	08/23/71
36-70	Zoning	06/22/70	24-71	Traffic – Load Limit	08/23/71
37-70	Zoning	06/22/70	25-71	Traffic	08/23/71
38-70	Zoning	07/27/70	26-71	Zoning	08/23/71
39-70	Traffic	08/10/70	27-71	Zoning	08/23/71
40-70	Traffic	08/10/70	28-71	Zoning	08/23/71
41-70	Traffic	08/24/70	29-71	Zoning	09/13/71
42-70	Traffic	08/24/70	30-71	Annex	09/13/71
43-70	Zoning	08/24/70	31-71	Traffic	09/27/71
44-70	Annex	08/24/70	32-71	Traffic	09/27/71
45-70	Tax Levy	09/13/70	33-71	Zoning	10/11/71
46-70	Traffic	10/12/70	34-71	Zoning	10/26/71
47-70	Traffic	10/12/70	35-71	Zoning	11/22/71
48-70	Zoning	10/12/70	36-71	Zoning	11/22/71
49-70	Zoning	10/12/70	37-71	Zoning	11/22/71
50-70	Zoning	10/12/70	38-71	Zoning	12/28/71
51-70	Zoning	10/12/70	39-71	Zoning	12/28/71
52-70	Zoning	10/26/70	40-71	Zoning	12/28/71
53-70	Traffic	11/23/70	41-71	Zoning	12/28/71
54-70	Zoning	11/23/70	43-71	Traffic	12/28/71
55-70	Zoning	11/23/70			
56-70	Election	11/23/70	1-72	Traffic	02/14/72
57-70	Traffic	12/14/70	2-72	Mobile Homes	02/28/72
58-70	CIPS	12/14/70	3-72	Traffic	02/28/72
59-70	Traffic	12/28/70	4-72	Zoning	03/13/72

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>
5-72	Leasing Bldg.	04/24/72	4-73	Zoning	03/26/73
6-72	Tax Levy	04/24/72	5-73	Mayor Salary	04/14/73
7-72	Streets	05/22/72	6-73	Alderman Salary	04/09/73
8-72	Streets	05/08/72	7-73	Zoning	04/23/73
9-72	Zoning	05/22/72	8-73	Zoning	04/23/73
10-72	Zoning	05/22/72	9-73	Zoning	05/29/73
11-72	National Bldg. Code	05/22/72	10-73	Zoning	06/11/73
12-72	Building Code	05/22/72	11-73	Traffic	06/11/73
13-72	Fire Code	05/22/72	12-73	Street Vacation	06/25/73
14-72	Electric Code	05/22/72	13-73	Traffic	07/09/73
15-72	Housing Code	05/22/72	14-73	Traffic	07/09/73
16-72	Housing Code	06/12/72	15-73	Traffic	07/09/73
17-72	Salary – Admin.	06/12/72	16-73	Salary – Admin.	07/09/73
18-72	Salary – Police	06/12/72	17-73	Salary – Atty.	07/09/73
19-72	Salary – Fire	06/12/72	18-73	Salaries	07/09/73
20-72	Employees	05/01/72	19-73	Traffic	07/09/73
21-72	Zoning	06/26/72	20-73	Employees – Vacation	07/09/73
22-72	Zoning	06/26/72	21-73	Traffic	08/13/73
23-72	Zoning	06/26/72	22-73	Traffic	08/13/73
24-72	Parking Limit	07/10/72	23-73	Tax Levy	08/27/73
25-72	Parking Limit	07/10/72	24-73	Vac. Street	08/27/73
26-72	Load Limit	07/10/72	25-73	Vac. Street	08/27/73
27-72	Traffic	07/10/72	26-73	Traffic	09/10/73
28-72	Zoning	07/10/72	27-73	Traffic	09/10/73
29-72	Streets	07/24/72	28-73	Annex	09/10/73
30-72	Streets	07/24/72	29-73	Zoning	09/24/73
31-72	Cable TV	08/14/72	30-73	Traffic	10/08/73
32-72	Traffic	08/28/72	31-73	Streets	10/27/73
33-72	Zoning	08/28/72	32-73	Zoning	10/22/73
34-72	Tax Levy	1972	33-73	Motor Vehicle	11/13/73
35-72	Streets	09/25/72	34-73	Annex	11/13/73
36-72	Vacation – Alley	10/23/72	35-73	Annex	11/13/73
37-72	Zoning	10/23/72	36-73	Annex	11/13/73
38-72	Streets	11/14/72	37-73	Traffic	11/26/73
39-72	Streets	11/27/72	38-73	Vac. Streets	01/14/74
40-72	Zoning	11/27/72	39-73	Salaries	12/10/73
41-72	Primary Election	11/27/72	40-73	Traffic	12/26/73
42-72	Stop Streets	12/11/72	41-73	Traffic	12/26/73
43-72	Vacated Alley	12/26/72			
44-72	Traffic	12/26/72			
45-72	Zoning	12/26/72	1-74	Annex	01/14/74
46-72	Election	12/26/72	2-74	Annex	01/14/74
47-72	Vacation – Street	12/26/72	3-74	Annex	01/14/74
			4-74	Zoning	01/28/74
			5-74	Annex	01/28/74
			6-74	Annex	02/11/74
1-73	Meetings – Special	02/26/73	7-74	Annex	03/11/74
2-73	Traffic	03/17/73	8-74	Zoning	03/11/74
3-73	Traffic	03/26/73			

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9-74	Traffic	03/25/74	13-75	Employee – Salaries	04/28/75
10-74	Offenses	03/25/74	14-75	Employee – Salaries	04/28/75
11-74	Annex	04/22/74	15-75	Employee – Salaries	04/28/75
12-74	Street Vacation	04/22/74	16-75	Employee – Salaries	04/28/75
13-74	Annex	04/22/74	17-75	Employee – Salaries	04/28/75
14-74	Salary – Admin.	05/13/74	18-75	City Atty. – Salary	04/28/75
15-74	Salary – Police	05/13/74	19-75	Weeds	06/09/75
16-74	Salary – Fire	05/13/74	20-75	Traffic	06/23/75
17-74	City Atty. Salary	05/13/74	21-75	Traffic	06/23/75
18-74	Truck Route	06/24/74	22-75	Traffic	06/23/75
19-74	Traffic	06/24/74	23-75	Traffic	06/23/75
20-74	Traffic	06/24/74	24-75	Traffic	06/23/75
21-74	Zoning	06/24/74	25-75	Traffic	07/28/75
22-74	Traffic	07/08/74	26-75	Traffic	07/28/75
23-74	Annex	07/08/74	27-75	Traffic	08/11/75
24-74	Police Dept. Rules	07/22/74	28-75	Traffic	08/11/75
25-74	Fire Dept Rules	07/22/74	29-75	Tax Levy	08/25/75
26-74	Budget Director	08/12/74	30-75	Traffic	09/08/745
27-74	Tax Levy	08/26/74	31-75	Traffic	09/08/75
28-74	Traffic	08/26/74	32-75	Fire Dept., Rules	09/08/75
29-74	Water System	08/26/74	33-75	Annex	10/13/75
30-74	Zoning	08/26/74	34-75	Annex	10/13/75
31-74	Garbage – Debris	09/23/74	35-75	Zoning	10/27/75
32-74	Street Vacated	09/23/74	36-75	Annex	11/24/75
33-74	Encroachment	10/03/74	37-76	Zoning	12/08/75
34-74	Landfill	10/14/74			
35-74	Use Tax	10/28/74			
36-74	Zoning	1974	1-76	Annex	01/12/76
37-74	Traffic	11/12/74	2-76	Annex	01/26/76
38-74	Traffic	11/12/74	3-76	Zoning	02/23/76
39-74	Traffic	11/25/74	4-76	ESDA	02/23/76
40-74	Primary Election	11/25/74	5-76	Traffic	03/08/76
41-74	Tax Levy – Bldg. Comm.	12/09/74	6-76	Annex	03/08/76
			7-76	Traffic Bonds	03/08/76
			8-76	Traffic	03/22/76
			9-76	Annex	03/22/76
1-75	Vacated Street	02/10/75	10-76	Annex	03/27/76
2-75	Massage Parlors	01/13/75	11-76	Zoning	04/12/76
3-75	Zoning	01/13/75	12-76	Bi-Centennial	04/12/76
4-75	Polling Places	01/13/75	13-76	Salaries	1976
5-75	Annex	01/27/75	14-76	Salaries	1976
6-75	Annex	01/27/75	15-76	Salaries	1976
7-75	Annex	01/27/75	16-76	Annex	1976
8-75	CIPS	02/24/75	17-76	Zoning	05/76
9-75	Vacation – Alley	02/24/75	18-76	Salaries	06/14/76
10-75	Traffic	03/10/75	19-76	Employees	06/14/76
11-75	Annex	03/24/75	20-76	Cable TV	07/01/76
12-75	Annex	04/28/75			

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21-76	Radio Operator	07/76	31-77	Traffic	09/26/77
22-76	Zoning	07/76	32-77	Traffic	09/26/77
23-76	Annex	08/09/76	33-77	Traffic	09/26/77
24-76	Tax Levy	08/23/76	34-77	Annex	10/10/77
25-76	Traffic	09/14/76	35-77	Annex	10/10/77
26-76	Zoning	09/14/76	36-77	Annex	10/10/77
27-76	Traffic	10/11/76	37-77	Annex	10/10/77
28-76	Traffic	10/11/76	38-77	Annex	10/10/77
29-76	Annex	11/01/76	39-77	Annex	10/10/77
30-76	Not Passed		40-77	Annex	10/10/77
31-76	Zoning	11/01/76	41-77	Annex	10/10/77
32-76	Zoning	11/22/76	42-77	Annex	10/10/77
33-76	Election	11/22/76	43-77	Annex	10/10/77
34-76	Encroachment	12/13/76	44-77	Annex	10/10/77
35-76	Motor Vehicles	12/13/76	45-77	Annex	10/10/77
36-76	Election	12/13/76	46-77	Water Rates	10/10/77
37-76	Annex	12/28/76	47-77	Sewer Rates	10/10/77
			48-77	Zoning	10/24/77
			49-77	Zoning	10/24/77
1-77	Annex	01/24/77	50-77	Admin. – Rules	10/24/77
2-77	Fire Code	02/14/77	51-77	Water	11/21/77
3-77	Annex	02/28/77	52-77	Annex - §19	12/12/77
4-77	Traffic	02/28/77	53-77	Annex - §19	12/12/77
5-77	Annex	03/14/77	54-77	Annex - §24	12/12/77
6-77	Annex	03/14/77	55-77	Annex - §24	12/12/77
7-77	Annex	03/14/77	56-77	Annex - §24	12/12/77
8-77	Annex	03/14/77	57-77	Annex - §24	12/12/77
9-77	Annex	03/14/77	58-77	Annex - §24	12/12/77
10-77	Annex	03/14/77	59-77	Annex - §31	12/12/77
11-77	Annex	03/28/77			
12-77	Traffic	03/28/77			
13-77	Traffic	03/28/77	1-78	Water Rates	01/09/78
14-77	Annex	03/28/77	2-78	Traffic §19-322A	01/09/78
15-77	Street Name	03/14/77	3-78	Zoning (108 N. 26 th)	01/09/78
16-77	City Clerk	04/11/77	4-78	Traffic	02/13/78
17-77	Annex	04/25/77	5-78	Sick Leave	02/13/78
18-77	Salaries	05/23/77	6-78	Zoning – Stotlar’s	02/27/78
19-77	Annex	05/23/77	7-78	Zoning – Washington	02/27/78
20-77	Traffic	03/13/77	8-78	Annex – C.W. & F’s	02/27/78
21-77	Police Rules	06/13/77	9-78	Annex - §30	03/27/78
22-77	Fire Code	06/13/77	10-78	Zoning	03/27/78
23-77	Offenses	06/13/77	11-78	Annex – W & F	04/24/78
24-77	Zoning	08/08/77	12-78	City Attorney	05/22/78
25-77	Zoning	08/08/77	13-78	Clerk Salary	05/22/78
26-77	Zoning	08/08/77	14-78	Fire Salary	05/22/78
27-77	Animal (Ch. 17)		15-78	Police Salary	05/22/78
28-77	Traffic	08/22/77	16-78	Salary	05/01/78
29-77	Tax Levy		17-78	Salary	05/22/78
30-77	Zoning	09/26/77	18-78	Salary	05/22/78

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19-78	Fire Employees	05/01/78	46-78	Offenses - Parents	11/27/78
20-78	Police Employees	05/10/78	47-78	Election	12/26/78
21-78	Employees	05/10/78	48-78	Snow Removal	12/26/78
22-78			49-78	Motor Vehicles	12/26/78
23-78					
24-78			1-79	Annexation	02/12/79
25-78			2-79	Annexation	02/12/79
26-78			3-79	Annexation	02/12/79
27-78	Traffic	06/26/78	4-79	Zoning	02/12/79
28-78	Annex	06/26/78	5-79	Zoning	02/12/79
29-78			6-79	Zoning	02/12/79
30-78			7-79	Zoning	02/12/79
31-78	Tax Levy	08/14/78	8-79	Salary – Adm. (Vetoed)	05/28/79
32-78	Annex – 319	08/28/78	9-79	Salary – Adm. (Vetoed)	05/28/79
33-78	Motor Vehicles	09/11/78	10-79	Salary – Adm. (Vetoed)	05/28/79
34-78	Annex – McNeill’s	11/14/78	11-79	Salary – Adm. (Vetoed)	05/28/79
35-78	Annex	09/11/78	12-79	Salary – Adm. (Vetoed)	05/28/79
36-78	Annex	09/11/78	13-79	Salary – Adm. (Vetoed)	05/28/79
36-78A	Annex – Repeals #36-78	09/25/78	14-79	Salary – Adm. (Vetoed)	05/28/79
37-78	Annex	10/09/78	15-79	Salary – Adm. (Vetoed)	05/28/79
38-78	Annex	12/26/78	16-79	W. Oak St. Imp.	06/25/79
39-78	Annex	1978	17-79	Traffic	06/25/79
40-78	Zoning	10/23/78	18-79	Zoning	06/25/79
41-78	Zoning	11/14/78	19-79	Vacate Alley	06/25/79
42-78	Motor Vehicles	11/14/78	20-79	Zoning	06/25/79
43-78			21-79	Employees	06/25/79
44-78	Encroachment	11/14/78	22-79	Zoning	06/25/79
45-78	Election	11/27/78			

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23-79	Zoning	07/23/79	Special Legislation
24-79	Zoning	07/23/79	Special Legislation
25-79	Annex	12/27/79	Special Legislation
25-79A	Tax Levy – Budget	08/13/79	Special Legislation
26-79	Annex	12/27/79	Special Legislation
27-79	Annex	12/27/79	Special Legislation
28-79	Annex	12/27/79	Special Legislation
29-79	Annex	12/27/79	Special Legislation
30-79	Salaries: Fire Chief	01/14/80	Ch. 14-2-1
1-80	Code Administrator	02/11/80	Ch. 2; Division XI
2-80	Zoning	03/10/80	Special Legislation
3-80	Zoning	03/24/80	Special Legislation
4-80	Revised Code	04/28/80	Begin Code
5-80	Zoning: McVey	04/28/80	Special Legislation
6-80	Zoning: Milani	04/28/80	Special Legislation
7-80	Zoning: Milani	04/28/80	Special Legislation
8-80	Zoning: Herrin Hospital	05/12/80	Special Legislation

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9-80	Zoning: Haught	06/23/80	Special Legislation
10-80	Zoning: Humphrey	06/23/80	Special Legislation
11-80	Tax Levy	07/28/80	Special Legislation
12-80	Zoning: Varacalli	07/28/80	Special Legislation
13-80	Zoning: Calbath	07/28/80	Special Legislation
14-80	Zoning: Samples	07/28/80	Special Legislation
15-80	Zoning: Restivo	07/28/80	Special Legislation
16-80	Zoning: Hospital	07/28/80	Special Legislation
17-80	Zoning: Hospital	07/28/80	Special Legislation
18-80	Liquor	07/28/80	Ch. 21-3-4
19-80	Employees: Benefits	08/11/80	Chapter 10
20-80	Salary: Police	08/11/80	Ch. 14-2-1
21-80	Salary: City Attorney	08/11/80	Chapter 1
22-80	Salary: Meter Man	08/11/80	Ch. 14-2-1
23-80	Salaries: Budget	08/11/80	Ch. 14-2-1
24-80	Salaries: Administration	08/11/80	Ch. 14-2-1
25-80	Salaries: Fire	08/11/80	Ch. 14-2-1
26-80	Salaries: Police	08/11/80	Ch. 14-2-1
27-80	Zoning: Hospital	08/25/80	Special Legislation
28-80	Vacate: Tyler Street	09/22/80	Special Legislation
29-80	Zoning: Calcatterra	10/13/80	Special Legislation
30-80	Zoning: Goebel	10/13/80	Special Legislation
31-80	Zoning: Childer's	10/27/80	Special Legislation
32-80	Zoning: Roesti	11/24/80	Special Legislation
33-80	Zoning: Stotlars	11/24/80	Special Legislation
34-80	Zoning: Norge	11/24/80	Special Legislation
35-80	Election	11/24/80	Special Legislation
36-80	Election	12/22/80	Special Legislation
1-81	Zoning: Goebel	01/26/81	Special Legislation
2-81	Zoning: Stacks	01/26/81	Special Legislation
3-81	Zoning: Walkers	01/26/81	Special Legislation
4-81	Business Code	03/19/81	Ch. 6-1-10.1
5-81	Business Code	03/23/81	Ch. 6-10-1, etc.
6-81	Zoning: Cox	03/23/81	Special Legislation
7-81	Zoning: Lauderdale	03/23/81	Special Legislation
8-81	Administration	04/13/81	Chapter 1
9-81	Fees & Salaries	04/27/81	Ch. 14-1-4
10-81	Fees & Salaries	04/27/81	Chapter 14
11-81	Fees & Salaries	04/27/81	Chapter 14
12-81	Fees & Salaries	05/11/81	Chapter 14
13-81	Fees & Salaries	05/11/81	Chapter 14
14-81	Fees & Salaries	05/11/81	Chapter 14
15-81	Fees & Salaries	05/11/81	Chapter 14
16-81	Employees	05/11/81	Ch. 10-1-7
17-81	Motor Vehicles	04/27/81	Ch. 24-2-1
18-81	Vacating Alley	05/11/81	Special Legislation
19-81	Administration	05/11/81	Ch. 1-2-120
20-81	Zoning: Salary	05/26/81	Special Legislation
21-81	Utilities	05/26/81	Ch. 38-1-1, et seq.
22-81	Zoning: Milani	06/22/81	Special Legislation
23-81	Motor Vehicles	06/22/81	Chapter 24
24-81	Motor Vehicles	06/22/81	Ch. 24-4-7

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25-81	Motor Vehicles	06/27/81	Ch. 24-5-3
26-81	Zoning: Hartley	07/13/81	Special Legislation
27-81	Zoning: Forbes	07/27/81	Special Legislation
28-81	Zoning: Alongi	07/27/81	Special Legislation
29-81	Zoning: Norge	08/24/81	Special Legislation
30-81	Zoning: Jordan	08/24/81	Special Legislation
31-81	Zoning: McCarty	08/24/81	Special Legislation
32-81	Tax Levy	09/04/81	Special Legislation
33-81	Zoning: Alongi	10/26/81	Special Legislation
34-81	Zoning: Chiaventone	10/26/81	Special Legislation
35-81	Zoning: Barwick	11/09/81	Special Legislation
36-81	Zoning: Russo	11/09/81	Special Legislation
37-81	Utilities	11/09/81	Ch. 38-4-1
38-81	Motor Vehicles	11/23/81	Ch. 24-2-1
39-81	Zoning: Jones	12/28/81	Special Legislation
40-81	Motor Vehicles	12/28/81	Ch. 24-2-1
41-81	Motor Vehicles	12/28/81	Ch. 24-3-2
42-81	Annex: Sunnyside	12/28/81	Special Legislation
43-81	Annex: Acreage	12/28/81	Special Legislation
44-81	Annex: North End	12/28/81	Special Legislation
45-81	Annex: Fairview Addition	12/28/81	Special Legislation
1-82	Motor Vehicles	01/25/82	Ch. 24-3-2
2-82	Encroachment	02/08/82	Special Legislation
3-82	Motor Vehicles	02/08/82	Chapter 24
4-82	Annex: Clark	02/08/82	Special Legislation
5-82	Zoning: Driemeyer	02/08/82	Special Legislation
6-82	Zoning: Goodwin	03/08/82	Special Legislation
7-82	Vacating Alley	03/22/82	Special Legislation
8-82	Employees	05/10/82	Chapter 10
9-82	Fees & Salaries	05/10/82	Chapter 14
10-82	Fees & Salaries	05/10/82	Chapter 14
11-82	Fees & Salaries	05/10/82	Chapter 14
12-82	Fees & Salaries	05/10/82	Chapter 14
13-82	Fees & Salaries	05/10/82	Chapter 14
14-82	Fees & Salaries	05/10/82	Chapter 14
15-82	Fees & Salaries	05/10/82	Chapter 14
16-82	Zoning: Reis	05/10/82	Special Legislation
17-82	Motor Vehicles	05/10/82	Ch. 24-2-2
18-82	Vacation: Madison	05/10/82	Special Legislation
19-82	Motor Vehicles	05/10/82	Ch. 24-3-2
20-82	Zoning	06/14/82	Special Legislation
21-82	Zoning: 1 st Pent.	06/14/82	Special Legislation
22-82	Nuisance	07/26/82	Ch. 25-2-10
23-82	Utilities	07/26/82	Ch. 38-5-52
24-82	Offenses: Raffles	08/09/82	
25-82	Tax Levy	09/13/82	Special Legislation
26-82	Zoning: Wade	08/23/82	Special Legislation
27-82	Zoning: Bailey	08/23/82	Special Legislation
28-82	Zoning: Kerrigan	09/27/82	Special Legislation
29-82			
30-82	Zoning: Hartley	09/27/82	Special Legislation
31-82	Vacating Plat: Grant	09/27/82	Special Legislation

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32-82	Industrial Commission	10/25/82	Chapter 4
33-82	Utility Rates	10/25/82	Chapter 38
34-82	Zoning: Riley	10/25/82	Special Legislation
35-82	Zoning: Camarato	10/25/82	Special Legislation
36-82	Motor Vehicles	07/26/82	Chapter 24
37-82	Motor Vehicles	09/13/82	Chapter 24
38-82	Motor Vehicles	09/13/82	Chapter 24
39-82	Motor Vehicles	10/25/82	Chapter 24
40-82	Zoning: Rokoczy	11/22/82	Special Legislation
41-82	Zoning: Shelton	11/22/82	Special Legislation
42-82	Zoning: Launis	11/22/82	Special Legislation
43-82	Motor Vehicles	12/27/82	Chapter 24
1-83	Zoning: Piper	01/24/83	Special Legislation
18-81A	Vacation Alley	02/14/83	Special Legislation
2-83	Annex: Fairview Addition	03/14/83	Special Legislation
3-83	Motor Vehicles	03/14/83	Chapter 24
4-83	Motor Vehicles	03/14/83	Chapter 24
5-83	Fire Training Act	03/14/83	Special Legislation
6-83	Motor Vehicles	03/28/83	Chapter 24
7-83	Motor Vehicles	03/28/83	Chapter 24
8-83	Motor Vehicles	03/28/83	Chapter 24
9-83	Motor Vehicles	03/28/83	Chapter 24
10-83	Fees & Salaries	04/25/83	Chapter 14
11-83	Fees & Salaries	04/25/83	Chapter 14
12-83	Fees & Salaries	04/25/83	Chapter 14
13-83	Fees & Salaries	04/25/83	Chapter 14
14-83	Fees & Salaries	04/25/83	Chapter 14
15-83	Zoning: Gourley	05/09/83	Special Legislation
16-83	Zoning: Hosman	05/09/83	Special Legislation
17-83	Zoning: Orchard Dr.	05/09/83	Special Legislation
18-83	Garbage User Fees	05/09/83	
19-83	Offenses	05/09/83	Ch. 27-3-2
20-83	Vacate: Herrin Hospital	05/09/83	Special Legislation
21-83	Zoning: Claunch	05/23/83	Special Legislation
22-83	Zoning: Howell	05/23/83	Special Legislation
23-83	Garbage: User Fees	05/23/83	Ch. 17-1-9
24-83	Annex: McNeill's 3 rd Survey	05/23/83	Special Legislation
25-83	Land: Cemetery	05/23/83	Special Legislation
26-83	Liquor	05/23/83	Ch. 21-2-8
27-83	Zoning: Ricketts	06/27/83	Special Legislation
28-83	Motor Vehicles	07/11/83	Chapter 24
29-83	Zoning: Reichert	07/25/83	Special Legislation
30-83	Motor Vehicles	08/08/83	Chapter 24
31-83	Tax Levy	1983	Special Legislation
32-83	Zoning: Loss	08/22/83	Special Legislation
33-83	Zoning: Kirk	08/22/83	Special Legislation
34-83	Zoning: Hays	08/22/83	Special Legislation
35-83	Annexation	08/22/83	Special Legislation
36-83	Animals	08/22/83	Ch. 3-1-12
37-83	Motor Vehicles	09/12/83	Chapter 14
38-83	Zoning: Steinmetz	09/26/83	Special Legislation
39-83	Zoning: Helms	09/26/83	Special Legislation

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40-83	Zoning: Sweet	09/26/83	Special Legislation
41-83	Zoning: Goebel	09/26/83	Special Legislation
42-83	Zoning: Pass	09/26/83	Special Legislation
43-83	Motor Vehicles	10/24/83	Chapter 24
44-83	Zoning: Rezoning	10/24/83	Special Legislation
45-83	Zoning: S.I.H.S.C.	10/24/83	Special Legislation
46-83	Zoning: Castro	10/24/83	Special Legislation
47-83	Zoning: Wolf	10/24/83	Special Legislation
48-83	Zoning: Taylor	10/24/83	Special Legislation
49-83	Zoning: Minnick	10/24/83	Special Legislation
50-83	Zoning: Drake	10/24/83	Special Legislation
51-83	Motor Vehicles	11/28/83	Chapter 24
52-83	Zoning: Mattingly	11/28/83	Special Legislation
53-83	Zoning: Stotlar	11/28/83	Special Legislation
54-83	Zoning: Norton	11/28/83	Special Legislation
55-83	Zoning: Chicken	12/12/83	Special Legislation
56-83	Cable TV – Sale	12/12/83	Special Legislation
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58-83	Zoning: Ferrell	12/22/83	Special Legislation
59-83	Zoning: McNanan	12/22/83	Special Legislation
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2-84	Zoning: Jacobs	01/23/84	Special Legislation
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6-84	Encroachment	02/27/84	Special Legislation
7-84	Motor Vehicles	03/12/84	Ch. 24-5-3
8-84	Zoning: Jones	03/26/84	Special Legislation
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12-84	Fees – Salaries	05/14/84	Chapter 14
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22-84A	Scout Cabin	08/13/84	Special Legislation
23-84A	Employees	07/23/84	Chapter 10
23-84	Employees	09/10/84	Chapter 10
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15-85	Zoning: Andesilich	03/25/85	Special Legislation
16-85	Zoning: Restivo	03/25/85	Special Legislation
17-85	Zoning: Jenkins	04/22/85	Special Legislation
18-85	Zoning: Ross	04/22/85	Special Legislation
19-85	Zoning: Rowe	04/22/85	Special Legislation
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36-85	Annex: Sec. 24 – Polk St.	08/12/85	Special Legislation
37-85	Annex: Drew Marketing	08/26/85	Special Legislation
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56-85	Zoning: McNana	11/25/85	Special Legislation
57-85	Zoning: Refrigeration	11/25/85	Special Legislation
58-85	Annex: Sec. 7	11/25/85	Special Legislation
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5-86	Annex: C.W. & F. Mining Co.	01/27/86	Special Legislation
6-86	Annex: Stonybrook	01/27/86	Special Legislation
7-86	Zoning: Satellite Dish Sales	01/27/86	Special Legislation
8-86	Zoning Amendment	01/27/86	Section 40-5-2
9-86	Zoning Amendment	01/27/86	Section 40-9-1(D)
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11-86	Tax Anticipation	02/04/86	Special Legislation
12-86	Zoning: Avripas	02/24/86	Special Legislation
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17-86	Missing		
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19-86	Annex: Route 13	03/10/86	Special Legislation
20-86	Annex: Browning’s Subdivision	03/10/86	Special Legislation
21-86	Annex: Stonybrook	03/10/86	Special Legislation
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41-86	Utilities: Sewer Rate	06/27/86	Chapter 38
42-86	Real Estate: Gould	06/09/86	Special Legislation
43-86	Annex:	06/23/86	Special Legislation
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45-86	Annex: Section 18	06/23/86	Special Legislation
46-86	Zoning: Hopper	06/23/86	Special Legislation
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50-86	C.I.P.S.—R-O-W	07/04/86	Special Legislation
51-86	Annex: Gourley	07/28/86	Special Legislation
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53-86	Auto Rent Tax	07/28/86	Chapter 36
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57-86	Zoning: Ken Jenkins	09/22/86	Special Legislation
58-86	Annexation	08/11/86	Special Legislation
59-86	Salaries: Budget Director	08/11/86	Chapter 14
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61-86	Annexation: Sec. 24	08/25/86	Special Legislation
62-86	Annexation: Stone Dr.	08/25/86	Special Legislation
62-86A	Annexation: Stone Dr.	09/08/86	Special Legislation
63-86	Annexation: Sec. 24	09/08/86	Special Legislation
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65-86	Motor Vehicles	09/08/86	Sec. 24-2-1; Schd. "A"
66-86	Motor Vehicles	09/08/86	Sec. 24-2-1; Schd. "A"
67-86	Ambulance EMT Salaries	09/22/86	Chapter 14
68-86	Zoning: Robert A Ferrari	09/22/86	Special Legislation
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70-86	Motor Vehicles	10/13/86	Sec. 24-2-1; Schd. "A"
71-86	Motor Vehicles	10/13/86	Sec. 24-5-3; Schd. "B"
72-86	Zoning	10/27/86	Special Legislation
72-86A	Utilities: Water	10/27/86	Chapter 38
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5-87	Subdivision Code	04/13/87	Chapter 34
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7-87	Zoning	04/27/87	Special Legislation
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9-87	Annex: ICG R.R. ROW	05/11/87	Special Legislation
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11-87	Nuisance	06/08/87	Secs. 25-2-2; 25-3-1
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19-87	Vacating Alley	Not Passed	
20-87	Motor Vehicles	08/10/87	Sec. 24-2-1; Schd. "A"
21-87	Motor Vehicles	08/10/87	Sec. 24-2-1; Schd. "A"
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23-87	Animal Code	08/24/87	Chapter 3 (Repealed)
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25-87	Utilities: Water	08/24/87	Chapter 38
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27-87	Offenses	10/12/87	Section 27-1-27
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29-87	Utilities Connection	10/12/87	Chapter 38
30-87	Motor Vehicles	09/28/87	Section 24-6-1.1
31-87	Utilities: Water	09/28/87	Chapter 38
31-87A	Utilities: Water	10/12/87	Chapter 38
32-87	Liquor	Not Passed	
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34-87	Zoning	10/12/87	Special Legislation
35-87	Zoning	10/12/87	Special Legislation
36-87	Motor Vehicles	09/28/87	Sec. 24-2-1; Schd. "A"
37-87	Vacate Plats	10/26/87	Special Legislation
38-87	Zoning: Towle	11/23/87	Special Legislation
39-87	Offenses: Burning	11/23/87	Section 27-1-24.1
40-87	Motor Vehicles: No Parking	11/23/87	Ch. 24; Schd. "B"
41-87	Motor Vehicles: Inoperable	12/28/87	Section 24-6-1(A)(B)
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3-88	Motor Vehicles	01/11/88	Ch. 24; Schd. "A"
4-88	Motor Vehicles	01/11/88	Chapter 24
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11-88	Annex: Sec. 6	02/22/88	Special Legislation
12-88	Annex: E. Stotlar St.	02/22/88	Special Legislation
13-88	Annex: Newman	02/22/88	Special Legislation
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18-88	Annex: W. Herrin Ave.	02/22/88	Special Legislation
19-88	Annex: W. Herrin Ave.	02/22/88	Special Legislation
20-88	Annex: W. Herrin Ave.	02/22/88	Special Legislation
21-88	Annex: W. Herrin Ave.	02/22/88	Special Legislation
22-88	Annex: McNeill's Survey	02/22/88	Special Legislation
23-88	Annex: Smith St.	02/22/88	Special Legislation
24-88	Annex: Pope Highlands	02/22/88	Special Legislation
25-88	Annex: Collard's 1 st Addition	02/22/88	Special Legislation
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33-88	Annex:	04/25/88	Special Legislation
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36-88	Administration Salaries	05/09/88	Section 14-2-1
37-88	Administration Salaries	05/09/88	Section 14-2-1
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41-88	Annex: Moore	05/09/88	Special Legislation
42-88	Annex: Jones	05/23/88	Special Legislation
43-88	Annex: Joplin	05/23/88	Special Legislation
44-88	Zoning: Kerley	05/23/88	Special Legislation
45-88	Offenses	05/23/88	Section 27-4-16
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47-88	Motor Vehicles	06/13/88	Sec. 24-2-1; Schd. "A"
48-88	Prevailing Wage	06/13/88	Special Legislation
49-88	Annex: Nielson	06/13/88	Special Legislation
50-88	Annex: Shoemate's	06/13/88	Special Legislation
51-88	Resolution	06/13/88	(Not An Ordinance)
52-88	Motor Vehicles	06/17/88	Sec. 24-5-3; Schd. "B"
53-88	Annex: Cahill	07/11/88	Special Legislation
54-88	Offenses: Lake Rules	08/22/88	Chapter 27
54-88A	Offenses: Lake Rules	09/12/88	Chapter 27
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62-88	Resolution Lease	08/22/88	(Not An Ordinance)
63-88	Zoning: Hodson	08/22/88	Special Legislation
64-88	Zoning: Harris	08/22/88	Special Legislation
65-88	Zoning: Cips.	08/22/88	Special Legislation
66-88	Motor Vehicles	09/12/88	Sec. 24-2-2; Schd. "D"
67-88	Annex: Baldwin	09/26/88	Special Legislation
68-88	Annex: Selina Murrah	09/26/88	Special Legislation
69-88	Christian Homes Bonds	09/20/88	Special Legislation
70-88	Zoning: Nonconforming	10/10/88	Special Legislation
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73-88	Municipal Leasing Inc.	10/24/88	Special Legislation
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76-88	Annex: Smith	12/12/88	Special Legislation
77-88	Employees: Benefits	11/28/88	Chapter
78-88	Annex: Brewster	12/12/88	Special Legislation
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5-89	Resolution: CDAP	03/15/89	(Not An Ordinance)
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9-89	Annexation	05/24/89	Special Legislation
10-89	Loss Control Policy	04/24/89	(Not An Ordinance)
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12-89	Salary: City Clerk's Office	05/08/89	Section 14-2-1
13-89	Salary: Employees	05/08/89	Section 14-2-1
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15-89	Salary: Fire	05/08/89	Section 14-2-1
16-89	Annexation	05/08/89	Special Legislation
17-89	Resolution Easement	05/22/89	Special Legislation
18-89	Annexation	06/12/89	Special Legislation
19-89	Resolution Building Commission	06/12/89	(Not An Ordinance)
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21-89	Salaries: Police Department	06/26/89	Section 14-2-1
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26-89	Annexation	09/25/89	Special Legislation
27-89	Zoning Nonconforming Use	09/25/89	Special Legislation
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39-89	Zoning: Straube	11/27/89	Special Legislation
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41-89	Vacation Street	12/11/89	Special Legislation
42-89	Motor Vehicles: Parking	01/08/90	Ch. 24; Schd. "B"
43-89	Encroachment: Route 148	01/08/90	Special Legislation
44-89	Enterprise Zone	12/11/89	Chapter 13
45-89	Motor Vehicles: Stops	12/11/89	Ch. 24; Schd. "A"
1-90	Annex: Browning Addition	01/08/90	Special Legislation
2-90	Annex: King & King	01/08/90	Special Legislation
3-90	Motor Vehicles: Stop	01/08/90	Ch. 24; Schd. "A"
4-90	Annex: Ridgway	01/08/90	Special Legislation
5-90	Annex: Farley	01/08/90	Special Legislation
6-90	Annex: Cook	01/08/90	Special Legislation
7-90	Annex: Murray	01/08/90	Special Legislation
8-90	Annex: Phipps	01/08/90	Special Legislation
9-90	Annex: Milani	01/08/90	Special Legislation
10-90	Fees and Salaries	02/12/90	Section 14-2-1
11-90	Motor Vehicles: Truck Routes	02/12/90	Ch. 24; Schd. "E"
12-90	Motor Vehicles: Parking	02/12/90	Ch. 24; Schd. "L"
13-90	Motor Vehicles: Parking	02/12/90	Ch. 24; Schd. "L"
14-90			
15-90	Zoning: Jim Scarlett	02/26/90	Special Legislation
16-90	Zoning: Intermediate Care	02/26/90	Special Legislation
17-90	Zoning: Gualdoni	02/26/90	Special Legislation
18-90	Liquor: Happy Hours	03/22/90	Section 21-3-17
19-90	Flood Plain Code	03/26/90	Ch. 5; Art. III
20-90	Motor Vehicles: Stop Intersections	03/26/90	Ch. 24; Schd. "L"
21-90	Zoning: Rezoning Lots	04/09/90	Special Legislation
22-90	Zoning: Baptist Church	04/09/90	Special Legislation
23-90	Zoning: Judy Robinson	04/09/90	Special Legislation
24-90	Resolution: Structure Dangerous		
25-90	Motor Vehicles: Stop Intersections	04/09/90	Ch. 24; Schd. "A"
26-90	Zoning: Dale Stanley	04/09/90	Special Legislation
27-90	Fees and Salaries	04/23/90	Section 15-2-1
28-90	Fees and Salaries	04/23/90	Section 15-2-1
29-90	Fees and Salaries	04/23/90	Section 15-2-1
30-90	Fees and Salaries	04/23/90	Section 15-2-1
31-90	Fees and Salaries	04/23/90	Section 15-2-1
32-90	Prevailing Wage	05/14/90	Special Legislation
33-90	Annexation: Glenn Reed	05/14/90	Special Legislation
34-90	Annexation: Landfill Property	05/14/90	Special Legislation
35-90	Annexation: Capogreco	05/14/90	Special Legislation
36-90R	Resolution: Rend Lake		
37-90	Employees: Drug and Alcohol	05/14/90	Ch. 10; Art. III
38-90	Housing Discrimination	05/14/90	Chapter 14
39-90R	Resolution: CDAP Grant	05/14/90	Special Legislation

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40-90R	Resolution: Rental Rehab.	05/14/90	Special Legislation
41-90R	Resolution: Housing Dev. Act	05/14/90	Special Legislation
42-90	Motor Vehicles: Parking	05/14/90	Sec. 24-5-3; Schd. "L"
43-90	Motor Vehicles: Parking	05/14/90	Sec. 24-5-3; Schd. "L"
44-90	Motor Vehicles: Parking	05/29/90	Sec. 24-5-3; Schd. "L"
45-90	Motor Vehicles: Parking	06/11/90	(Repeals #44-90)
46-90	Vacating 33 rd St.: Bruno Delai	06/25/90	Special Legislation
47-90	Zoning: Vaughn	06/25/90	Special Legislation
48-90	Motor Vehicles: Parking	06/25/90	Sec. 24-5-3; Schd. "C"
49-90	Lease – Purchase	08/27/90	Special Legislation
50-90	Zoning Code	08/13/90	Section 40-1-1
51-90	Mobile Homes	09/10/90	Section 23-2-17
52-90	Mobile Homes	09/24/90	Section 23-2-18
53-90	Zoning: Nonconforming	09/24/90	Special Legislation
54-90	Zoning: Nonconforming	09/24/90	Special Legislation
55-90	Vacation: Alley (Walker)	09/24/90	Special Legislation
56-90	Motor Vehicles: Stops	09/24/90	Sec. 24-2-1; Schd. "A"
57-90	Motor Vehicles: Stops	09/24/90	Sec. 24-2-1; Schd. "A"
58-90	Motor Vehicles: Speed	09/24/90	Sec. 24-3-2; Schd. "H"
59-90	Motor Vehicles: No Parking	10/22/90	Sec. 24-5-3; Schd. "B"
60-90	Motor Vehicles: Stop	10/22/90	Sec. 24-2-1; Schd. "A"
61-90R	C.D.A.P. Grant	11/13/90	Resolution
62-90R	Rev. Bond: Ward Chev.	11/13/90	Resolution
63-90	Motor Vehicles	11/26/90	Sec. 24-2-1; Schd. "A"
64-90	Tax Levy	12/10/90	Special Legislation
65-90	Enterprise Zone	12/17/90	Chapter 13
1-91	Vacate: 33 rd St.		(PENDING)
2-91R	Resolution: Clean Air Act	02/25/91	NOT APPLICABLE
3-91	Garbage Code	02/25/91	Chapter 17
4-91	Zoning: Rezone	03/25/91	Special Legislation
5-91	Prevailing Wage	04/22/91	Special Legislation
6-91R	Resolution: Econ. Dev. Grant	04/22/91	NOT APPLICABLE
7-91R	Resolution: Econ. Dev. Local	04/22/91	NOT APPLICABLE
8-91	Motor Vehicles	04/22/91	Sec. 24-5-3; Schd. "L"
9-91	Fees and Salaries	05/13/91	Section 15-2-1
10-91	Fees and Salaries	05/13/91	Section 15-2-1
11-91	Fees and Salaries	05/13/91	Section 15-2-1
12-91	Fees and Salaries	05/13/91	Section 15-2-1
13-91	Fees and Salaries	05/13/91	Section 15-2-1
14-91	Fees and Salaries	05/13/91	Section 15-2-1
15-91	Fees and Salaries	05/13/91	Section 15-2-1
16-91	Enterprise Zone	05/13/91	Chapter 13
17-91R	Resolution: Freedom of Information	05/13/91	Not Applicable
18-91R	Resolution: Open Meetings Act	05/13/91	Not Applicable
19-91	Motor Vehicles	05/13/91	Section 24-5-3
20-91	Liquor: Hours	05/28/91	Section 21-3-1
21-91	Fees and Salaries	05/28/91	Section 15-2-1
22-91	Fees and Salaries	05/28/91	Section 15-2-1
23-91	Fees and Salaries	05/28/91	Section 15-2-1
24-91	Fees and Salaries	05/28/91	Section 15-2-1
25-91	Fees and Salaries	05/28/91	Section 15-2-1
26-91R	Resolution: Econ. Dev. Ad. Grant	06/10/91	Not Applicable

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27-91R	Resolution: Local Grant Share	06/10/91	Not Applicable
28-91R	Resolution: Local Grant Share	06/10/91	Not Applicable
29-91	Motor Vehicles	06/02/91	Sec. 24-2-1; Schd. "A"
30-91	Salaries	07/08/91	Section 15-2-1(D)
31-91	Motor Vehicles	07/08/91	Section 24-2-1
32-91R	Resolution: Building Comm.	07/22/91	Not Applicable
33-91	Motor Vehicles	07/23/91	Section 24-2-2
34-91	Motor Vehicles	08/26/91	Section 24-2-1
35-91	Motor Vehicles	08/26/91	Section 24-2-1
36-91	Motor Vehicles	09/09/91	Section 24-2-1
37-91	Building Codes	09/23/91	Section 5-1-1
38-91	Salaries	10/14/91	Section 15-2-1
39-91	Motor Vehicles	10/14/91	Section 24-3-2
40-91	Salaries	10/28/91	Special Legislation
41-91R	Resolution: Lease	11/12/91	Not Applicable
42-91	Animal Code	11/25/91	Section 3-2-12
43-91	Tax Levy	12/09/91	Special Legislation
44-91R	Resolution: Airport	12/09/91	Not Applicable
1-92	Building N.F.P.A. 101 Life Safety	01/27/92	Section 5-1-1
2-92	Easement: Capogreco		Special Legislation
3-92	Boards and Commissions: Planning	02/24/92	Section 4-1-2
4-92	Salaries	03/23/92	Chapter 15
5-92	Salaries	03/23/92	Chapter 15
6-92	Zoning: Marlow	03/23/92	Special Legislation
7-92	Utilities: Sewers	03/23/92	Ch. 38; Art.
8-92	Motor Vehicles: No Parking	04/13/92	Section 24-5-3
9-92	Zoning: Nonconforming Amend.	04/13/92	Section 40-9-1
10-92	Zoning: Annexations	04/13/92	Section 40-2-3
11-92	Utilities: Deposits	04/27/92	Section 38-2-5
12-92	Salaries: Police Department	04/27/92	Chapter 15
13-92	Salaries: Fire Department	04/27/92	Chapter 15
14-92	Salaries: Budget Officer	04/27/92	Chapter 15
15-92	Salaries: City Clerk's Office	04/27/92	Chapter 15
16-92	Salaries: City Employees	04/27/92	Chapter 15
17-92	Salaries: Ambulance Personnel	04/27/92	Chapter 15
18-92	Salaries: Library Personnel	04/27/92	Chapter 15
19-92	Annexation: Schlager	04/27/92	Special Legislation
20-92R	Salaries: Police Department	-----	
21-92	Prevailing Wage	06/08/92	Special Legislation
22-92	Real Estate Surplus	06/08/92	Special Legislation
23-92	Assignment of Bonds: Water	06/08/92	Special Legislation
24-92	C.I.P. Service Pole Agreement	06/08/92	Special Legislation
25-92	Nuisances: Weeds	06/08/92	Section 25-2-10
26-92	Zoning Map: Griffith	06/22/92	Special Legislation
27-92	Zoning Map: Elliott	06/22/92	Special Legislation
28-92	Enterprise Zone: Territorial Des.	06/22/92	Special Legislation
29-92R	Property Tax Reform	-----	
30-92	Motor Vehicles: Stop Intersections	07/27/92	Section 24-2-1
31-92	Motor Vehicles: Stop Intersections	07/27/92	Section 24-2-1
32-92R	Declaring Structure Dangerous	-----	
33-92	Salaries	08/24/92	Chapter 15
34-92	Salaries: Fire Department	08/24/92	Chapter 15

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35-92	Utilities: Water Rates	08/24/92	Chapter 38
36-92	Purchase of Land: Multi-Purpose Fac.	08/24/92	Special Legislation
37-92	Sewerage System Revenue Bonds	08/24/92	Special Legislation
38-92	Annexation: Kenneth Ferrell	09/14/92	Special Legislation
39-92	Utilities: Water	09/14/92	Chapter 38
39-92A	Liquor Code	09/14/92	Section 21-2-8
40-92	Zoning: Killebrew – Multi-Family	09/28/92	Special Legislation
41-92	Zoning: Serrett – Nonconforming	09/28/92	Special Legislation
42-92	Utilities: Water Rates	09/28/92	Special Legislation
43-92	Annexation: Youngblood	10/26/92	Special Legislation
44-92	Liquor Code	11/09/92	Section 21-2-8
45-92	Zoning Map	10/26/92	Special Legislation
46-92	Annexation: Cain and Walden	11/09/92	Special Legislation
47-92	Annexation: James McVicker	11/09/92	Special Legislation
48-92			
49-92	Motor Vehicles: Speed Limits	11/23/92	Special Legislation
50-92	Annexation: Buckingham	12/14/92	Special Legislation
51-92	Annexation: Brewster & Ridgway	12/15/92	Special Legislation
1-93	Motor Vehicles: Stop Intersections	01/11/93	Sec. 24-2-1; Schd. "A"
2-93	Motor Vehicles: Speed Restrictions	01/25/93	Sec. 24-3-2; Schd. "H"
4-93	Annexation: Mark Smith	03/08/93	Special Legislation
5-93	County Enterprise Zone	03/08/93	Special Legislation
6-93	Zoning Code: Gloebel	03/22/93	Special Legislation
7-93	Zoning Code: Crabtree	03/22/93	Special Legislation
9-93	Salaries: Police Department	04/26/93	Section 15-2-1
10-93	Salaries: Fire Department	04/26/93	Section 15-2-1
11-93	Salaries: Budget Officer	04/26/93	Section 15-2-1
12-93	Salaries: City Clerk's Office	04/26/93	Section 15-2-1
13-93	Salaries: City Employees	04/26/93	Section 15-2-1
14-93	Salaries: Ambulance Personnel	04/26/93	Section 15-2-1
15-93	Right-of-Way to CIPS Co.	05/10/93	Special Legislation
16-93	Utilities: Sewer	05/24/93	Section 38-4-9
18-93	Prevailing Wage	06/14/93	Special Legislation
19-93	Motor Vehicles: Stop Intersections	06/14/93	Sec. 24-2-1; Schd. "A"
20-93	Salaries: Public Works Dept. Secretary	07/12/93	Section 15-2-1
21-93	Offenses: Amplified Sounds	08/09/93	Chapter 27
22-93	Shawnee Christian Center Bonds	08/09/93	Special Legislation
23-93	Motor Vehicles: Speed Restrictions	09/13/93	Sec. 24-3-2; Schd. "H"
24-93	Motor Vehicles: Stop Intersections	09/13/93	Sec. 24-2-1; Schd. "A"
23-94	Annexation	1994	Special Legislation
24-94	Cable Television: TCI of Illinois, Inc.	08/08/94	Special Legislation
25-94	Enterprise Zone: Technical Zone	08/22/94	Chapter 13
26-94	Enterprise Zone: Territory	08/22/94	Chapter 13
27-94	Enterprise Zone: Technical	09/12/94	Chapter 13
28-94	Transfer Station Agreement	09/26/94	Special Legislation
29-94	Disconnecting Real Estate: Energy	10/10/94	Special Legislation
30-94	Disposal of Nonhazardous Solid Waste	10/10/94	Section 17-2-21
31-94	Sexual Harassment Policy	10/10/94	Ch. 10; Art. IV
32-94	Budget Officer Salary	10/24/94	Chapter 15
33-94	Annexation: McVicker	1994	Special Legislation
34-94	Zoning: Jerry Elliott	11/28/94	Special Legislation

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35-94	Vacating Ordinance: Incomplete	1994	Special Legislation
36-94	Tax Levy	1994	Special Legislation
37-94	Licensing Ambulance Service	01/09/95	Ch. 6; Art. XII
38-94	Sale of Personal Prop: Ambulance Service	12/12/94	Special Legislation
39-94	Pre-Employment Contract	12/12/94	Special Legislation
40-94	Purchase of Real Property: O. Hudgens	12/12/94	Special Legislation
41-94	Zoning Map: Skaggs	12/12/94	Special Legislation
1-95	Enterprise Zone: Territory	01/09/95	Chapter 13
2-95	Annexation: Jenkins	01/09/95	Special Legislation
3-95	Cable Television: Term: TCI, Successor to Southern Illinois Cable TV, Inc.	01/09/95	Special Legislation
4-95	Annexation: Energy and Herrin		
5-95	Motor Vehicles: No Parking	02/27/95	Ch. 24; Schd. "B"
6-95	Motor Vehicles: One-Way Street	02/27/95	Ch. 24; Schd. "D"
7-94A	Disconnecting Real Estate (Romanelli)	04/11/94	
35-94	Vacation of Right-of-Way (South Side Lumber)	11/14/95	
7-95	Offenses	03/13/95	Chapter 27
8-95	Offenses: Parental Responsibility	03/13/95	Section 27-5-1
9-95	Liquor Code: Entry Age	03/13/95	Section 21-3-23
10-95	Offenses: Tobacco	03/13/95	Section 27-1-22
11-95	Offenses	03/27/95	Chapter 27
12-95	Liquor License: Classes	03/27/95	Section 21-2-8
13-95	Cemetery: Rates	03/27/95	Section 8-2-1
14-95	Zoning: Variance – Castoldi	04/24/95	
15-95	Salary: Fire Department	04/24/95	Chapter 15
16-95	Salary: Police Department	04/24/95	Chapter 15
17-95	Salary: Budget Officer Assistant	04/24/95	Chapter 15
18-95	Salary: City Clerk's Office	04/24/95	Chapter 15
19-95	Salary: City Employees	04/24/95	Chapter 15
20-95	Zoning Permit Fee	05/08/95	Section 40-10-1(A)
21-95	Abating Bond for 1994	05/08/95	Special Legislation
22-95	Zoning: Rezone R-1 to R-4 – 2021 W. Monroe St.	05/22/95	Special Legislation
23-95	Motor Vehicles: Stop Sign	05/22/95	Ch. 24; Schd. "A"
24-95	Prevailing Wage	06/12/95	Special Legislation
25-95	Annexation: Sports Complex	06/12/95	Special Legislation
26-95	Annexation: Jerry D. Brown	06/12/95	Special Legislation
27-95	Zoning: Rezone R-2 to B-2 – Rt. 1 Box 134A	07/10/95	Special Legislation
28-95	Property Owners – Rental Property Permits	07/10/95	Ch. 5; Art. V
29-95	Purchase of Real Estate: Sewer Plant	07/24/95	Special Legislation
30-95	Vacation Alley: Lowell Brown, 35 th and Monroe St.	11/14/95	Special Legislation
31-95	Execution of Right-of-Way Grant CIPS	08/14/95	Special Legislation
32-95	Zoning: Rezone R-2 to R-4 – Jeffrey	08/28/95	Special Legislation
33-95	Zoning: Rezone R-2 to R-4 – Hernbeck	10/23/95	Special Legislation
34-95	Annexation: Herrin School	09/11/95	Special Legislation
35-95	Motor Vehicles: Stop	08/28/95	Ch. 24; Schd. "A"
36-95	Motor Vehicles: Stop	09/11/95	Ch. 24; Schd. "A"
37-95	Motor Vehicles: Stop	09/11/95	Ch. 24; Schd. "A"
38-95	Annexation: Aldridge, Wright	09/25/95	Special Legislation
39-95	Vacation Right-of-Way: Pete Jones	11/14/95	Special Legislation

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68-99	Abating Bond	1999	Special Legislation
69-99	Abating Water Bonds	1999	Special Legislation
70-99	Abating G.O. Water Bonds	1999	Special Legislation
71-99	Lease Agreement: Allied Waste	1999	Special Legislation
72-99	Employees: Part-Time Employees	12/13/99	Chapter 15
1-2000	Conveyance Real Property to Herrin School District 4	2000	Special Legislation
2-2000	Zoning: Map – 2000 W Monroe	2000	Special Legislation
3-2000	Conveyance of Alley	2000	Special Legislation
4-2000	Vacate Portion of Lincoln Drive	2000	Special Legislation
5-2000	Sale of Personal Property – Caterpillar	2000	Special Legislation
6-2000	Site Plan Regulations	03/27/00	Chapter 41
7-2000	Zoning Map: Jim Bouse	2000	Special Legislation
8-2000	Annexation: Vancil	2000	Special Legislation
9-2000	Annexation: Vancil	2000	Special Legislation
10-2000	Motor Vehicles: No Parking	04/10/00	Sec. 24-5-3(B)
11-2000	\$500,000.00 Alternate Revenue Bonds	2000	Special Legislation
12-2000	Purchase of Backhoe	2000	Special Legislation
13-2000	County Enterprise Zone: Add Territory	2000	Special Legislation
14-2000	Zoning: Variance – Annex Sign	2000	Special Legislation
15-2000	Zoning: Variance	2000	Special Legislation
16-2000	Fees/Salaries	05/22/00	Sec. 15-2-1
17-2000	Motor Vehicles: Residential Parking	05/22/00	Sec. 24-5-3(L)
18-2000	Prevailing Wages	2000	Special Legislation
19-2000	Vacation of Ridgefield Est Subd. – Phase I Legacy	2000	Special Legislation
20-2000	Construction of Bridge S. 8 th St.	2000	Special Legislation
21-2000	Zoning Map: Parking Lot	2000	Special Legislation
22-2000	Zoning Map: Hurricane Creek Subd.	2000	Special Legislation
23-2000	Zoning: Special Use – Sale of Craft Items	2000	Special Legislation
24-2000	County Enterprise Zone: Add Territory	2000	Special Legislation
25-2000	Zoning Code: Permitted Uses	08/14/00	Sec. 40-4-4(A)(G)
26-2000	Zoning: Special Use Denied – Home Day Care	2000	Special Legislation
27-2000	Zoning Map: Denying Bellaire	2000	Special Legislation
28-2000	Animals: Impounding	08/28/00	Secs. 3-2-5; 3-2-7
29-2000	Fees & Salaries: Longevity	09/11/00	Sec. 15-2-1
30-2000	Dedication Lincoln Drive	2000	Special Legislation
31-2000	Funding City Library Expansion	2000	Special Legislation
32-2000	Agreement City of Herrin and REDCO	2000	Special Legislation
33-2000	Annexation: Helleny & Chou	2000	Special Legislation
34-2000	Purchase of Two Pumps: Sewage Plant	2000	Special Legislation
35-2000	Purchase of Police Vehicles	2000	Special Legislation
36-2000	Motor Vehicle: One Way Streets	11/14/00	Sec. 24-2-2
37-2000	Zoning Map: 3 Plex	2000	Special Legislation
38-2000	IMLRMA Contribution Agreement	2000	Special Legislation
39-2000	Tax Levy	2000	Special Legislation
40-2000	Abating GO Water Bonds	2000	Special Legislation
41-2000	Abating GO Water Bonds	2000	Special Legislation
42-2000	Abating GO Sewer Bonds	2000	Special Legislation

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1-2001	Taxation: T taxpayer's Rights Act	01/08/01	Ch. 36; Art. III
2-2001	Zoning Variance: OLMC School	2001	Special Legislation
3-2001	Zoning Map: Carrol St	2001	Special Legislation
4-2001	Business: Display of License	02/12/01	Sec. 6-6-7
5-2001	\$500,000 Bonds Library	2001	Special Legislation
6-2001	Denying a Zoning Change: 1707 S Park	2001	Special Legislation
7-2001	Zoning Variance: Co. Housing Authority	2001	Special Legislation
8-2001	Carl Bruce Annex Building Renovation	2001	Special Legislation
9-2001	Annexation: David Milani	2001	Special Legislation
10-2001	Moratorium of Installation Wireless Communication Facilities	04/09/01	Special Legislation
11-2001	\$1,755.00 Sewage Bonds	2001	Special Legislation
12-2001	Zoning Code: Wireless Comm.	04/23/01	Sec. 40-15-1
13-2001	Williamson Enterprise Zone (REDCO Industrial Park)	2001	Special Legislation
14-2001	Williamson Enterprise Zone (Marion Motor Speedway)	2001	Special Legislation
15-2001	Williamson Enterprise Zone (Marion Ford)	2001	Special Legislation
16-2001	Williamson Enterprise Zone (Herrin Roth Signs)	2001	Special Legislation
17-2001	Williamson Enterprise Zone (Ike Buick)	2001	Special Legislation
18-2001	Zoning Map: City of Herrin	2001	Special Legislation
19-2001	Prevailing Wage	2001	Special Legislation
20-2001	Agreement (Humane Dispatch and Disposal of Animals)	2001	Special Legislation
21-2001	Rezoning 901 West Oak St	2001	Special Legislation
22-2001	Zoning Variance: Setback 901 W Oak	2001	Special Legislation
23-2001	Zoning Map: 504 E Hill	2001	Special Legislation
24A-2001	Motor Vehicles: Stop Sign	06/25/01	Ch. 24; Schd. "A"
24-2001	Fees and Salaries	07/09/01	Sec. 15-2-1
25-2001	Employees: Health Insurance and Annuity	07/09/01	Sec. 10-1-2; 10-1-9
26-2001	Motor Vehicles: Parking on Park Ave	07/09/01	Sec. 24-5-3; Schd. "B"
27-2001	Lease of Cell Tower	2001	Special Legislation
28-2001	Motor Vehicles: No Parking Polk St	08/13/01	Sec. 24-5-3; Schd. "B"
29-2001	Motor Vehicles: Closing Street 100 Block of North 17 th St	08/27/01	Chapter 24
30-2001	Zoning Special Use: 916 S 11 th	08/27/01	Special Legislation
31-2001	Zoning Special Use: Beauty Shop at 201 S 18 th St	08/27/01	Special Legislation
32-2001	Zoning Map: 401 S 19 th	08/27/01	Special Legislation
33-2001	Motor Vehicles: Stops	08/27/01	Ch. 24; Schd. "A"
34-2001	Zoning Code	09/24/01	Chapter 40 (New)
35-2001	Streets: Merchandise on Public Streets	09/24/01	Sec. 33-2-12
36-2001	Zoning Variance: 508 S 6 th St	10/08/01	Special Legislation
37-2001	Site Plan Requirements	10/08/01	Secs. 41-1-1; 41-1-2
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EXHIBIT 'A'

CHAPTER 1

ADMINISTRATION

ARTICLE I - GENERAL CODE PROVISIONS

DIVISION I - TITLE

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

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

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

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

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

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

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

DIVISION II - SAVING CLAUSE

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

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

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

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

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

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

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

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

CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF WILLIAMSON) ss. CITY CLERK'S OFFICE
CITY OF HERRIN)

I, Shelly Huggins, City Clerk of the City of Herrin, Illinois, do hereby certify that the following Revised Code of Ordinances of the City of Herrin, Illinois of 2019, published by authority of the City Council were duly passed by the City Council of the City of Herrin, 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 Herrin, Illinois, this _____ day of _____, 2019.

SHELLY HUGGINS, CITY CLERK
CITY OF HERRIN

(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 Herrin, Illinois.

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

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

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

"COUNTY" shall mean the County of Williamson.

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

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

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

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

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

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

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

"MAY" as used in this Code means permissible.

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

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

"NEGLECT", "NEGLIGENCE", "NEGLIGENT" AND "NEGLIGENTLY" import a want of such attention to the nature of probable consequences of the act 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.

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

"SHALL" as used in this Code means mandatory.

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

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

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

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

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

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

1-1-18 - 1-1-19 RESERVED.

DIVISION IV - GENERAL PENALTY

1-1-20 PENALTY.

(A) Any person convicted of a violation of any section of this Code shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **One Thousand Dollars (\$1,000.00)** for any **one (1) offense.**

(B) Any minor or person designated a juvenile by this State convicted of a violation of any Section of this Code shall be fined in a sum of at least **Seventy-Five Dollars (\$75.00)** but not to

exceed **Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense**, but may not be confined, except by provisions of the **Juvenile Court Act of the State of Illinois**. In addition, any minor or person designated a juvenile by this State convicted of a violation of any Section of this Code shall be responsible for the City's attorney fees and court costs related to the prosecution of that minor's violation(s) of this Code. **(Ord. No. 9-2011; 03-03-11)**

(C) Any person convicted of a violation of any Section of this Code may be required to perform public service work in addition to any monetary penalty which may be imposed, or in lieu of a monetary penalty.

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

(E) 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. **(Ord. No. 33-98; 10-12-98)**

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

1-1-22 **APPLICATION.**

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

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

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

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

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

ARTICLE II - CITY OFFICIALS

DIVISION I - CITY COUNCIL

1-2-1 COMPOSITION AND GENERAL POWERS. The City Council shall consist of **eight (8)** Aldermen, **two (2)** from each ward, elected in conformity with this Code and State Law governing elections in cities and shall have such powers as are granted by **Chapter 65, Illinois Compiled Statutes**. The term of office shall be for **four (4) years**, or until their successors are elected and have qualified. **(65 ILCS 5/3.1-10-50(D) and 5/3.1-20-10)**

1-2-2 REGULAR MEETINGS. The regular meetings of the City Council shall be held in Herrin City Hall on the **second (2nd)** and **fourth (4th) Monday** of each month at **six o'clock (6:00) P.M.** When the regular meeting date falls upon a legal holiday, the meeting may be held on the next day at the same hour, or any other date and time as determined by the City Council. Adjourned meetings may be held at such times as may be determined by the City Council. Public notice of regular meetings shall be given in accord with the **Open Meetings Act**. **(65 ILCS 5/3.1-40-25 and 5 ILCS 120/2.02 and 120/2.03) (Ord. No. 30-2003; 06-23-03)**

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

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

- (A)
 - (1) Finance
 - (2) Public Works
 - (3) Public Improvement
 - (4) Public Safety
 - (5) Water and Sewer
- (B) The committees shall be appointed annually by the Mayor.
- (C) The Mayor shall be ex-officio chairman of each and every standing committee.
- (D) So far as is practicable, reports of committees shall be in writing.
- (E) As provided by law, any report of a committee of the Council shall be deferred for final action thereon to the next regular meeting of the same after the report is made, upon the request of any **two (2)** Aldermen present. **(65 ILCS 5/3.1-40-35)**
- (F) All committee meetings are subject to the Open Meetings Act requirements and minutes shall be taken. **(5 ILCS 120/1 and 120/2.06)**
- (G) Each standing committee of the City Council shall exercise a general supervision over the affairs of the department of municipal government with which it is connected; shall ascertain the condition and needs of said department; shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof may be had, and generally, shall do all acts necessary to promote the efficiency of the Department.

1-2-5 **SPECIAL COMMITTEES.** Special Committees may be appointed by the Mayor, subject to the advice and consent of the Aldermen, as may be needed from time to time. **(Ord. No. 30; 05-28-70)**

1-2-6 **QUORUM.** At all meetings of the City Council, a majority of the corporate authorities shall constitute a quorum for the transaction of business, and if no such quorum attends such meeting of the Council, the Aldermen may adjourn from day to day until a quorum is present; and shall have power to compel the attendance of absent members, except when such members are physically unable to attend such meetings. **(65 ILCS 5/3.1-40-20)**

EDITOR'S NOTE: When the Council has a Mayor and eight (8) Aldermen, a quorum is five (5), which may consist of the Mayor and four (4) Aldermen, or five (5) Aldermen.

1-2-7 **MEMBERS REFUSING TO ATTEND.** Any member of the City Council who shall neglect or refuse to attend any meeting of the City Council without good and sufficient excuse to be passed upon by the City Council shall be fined the sum of **Fifteen Dollars (\$15.00)** for failure to attend such meeting. No member shall receive compensation for failure to attend said meeting under the provisions of **Section 1-2-2. (65 ILCS 5/3.1-10-50 and 5/3.1-40-20)**

[EDITOR'S NOTE: No procedure is set forth in the statutes for determining that a vacancy exists. Where a true question exists as to the presence of a vacancy, a hearing should be held before the vacancy is declared. A registered letter should be sent to the last known address of the person whose office is in question.]

1-2-8 - 1-2-10 **RESERVED.**

DIVISION II - RULES OF THE CITY COUNCIL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(P) **Taking and Entering the Votes - Explanations of Votes Not Permitted.**

If any member required it, the "yeas" and "nays" upon any question shall be taken and entered in the journal; but the yeas and nays shall not be taken unless called for prior to any vote on the question.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A motion to defer or postpone without any reference to time shall not be construed as a motion to postpone indefinitely, but shall be considered to be of the same general nature and to possess the

same general attributes so far as applicable under these rules, as a motion to postpone indefinitely or to a time certain.

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

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

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

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

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

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

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

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

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

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

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

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

NOTE ON VOTING: An Alderman is not required to vote on a motion, resolution, or ordinance. His failure to vote, however, will not invalidate a resolution or motion which does not require the affirmative vote of a particular percentage of the corporate authorities where the majority of those exercising their franchise are in favor of the motion or resolution.

In dealing with an ordinance involving liability, expenditure or appropriation wherein an affirmative vote of a majority of the corporate authorities holding office is required, the philosophy is this: "If a member of a public body is present at a meeting, he is obliged to vote, except if he has an interest in the matter that is before the public body and if he does not vote, his failure to do so must be construed as concurring with the majority. The non-vote will be counted in the column of the majority of those voting."

1-2-12 AGENDA. An itemized agenda, along with all necessary supporting documentation shall be furnished to each member of the Council no later than **forty-eight (48) hours**

prior to the regular Council meeting. In the case of emergency matters, which could not have been reasonably foreseen in sufficient time to comply with this section, a revised agenda will be furnished to each member of the Council prior to the opening of the Council meeting. **(5 ILCS 120/2.02)**

1-2-13 ADDRESS BY NON-MEMBERS.

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

- (1) He or she shall rise (if not physically impaired) and state his or her name for the record and unless further time is granted by the Council to limit remarks to **three (3) minutes**. All remarks shall be addressed to the City Council, not to any member thereof.
- (2) No person other than the Council member recognizing the individual addressing the Council and the person having the floor shall be permitted to enter into any discussion directly or through a member of the Council without the permission of the Mayor. No questions shall be asked of an Alderman except through the Mayor. Any person making personal or impertinent remarks or who shall become disruptive addressing the City Council shall be forthwith evicted from the Council room by the Mayor.

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

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

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

DIVISION III - ORDINANCES

1-2-14 ORDINANCES.

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

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

(C) **Vote Required-Yeas and Nays Record.** The passage of all ordinances for whatever purpose, and of any resolution or motion (1) to create any liability against a city or (2) for the expenditure or appropriation of its money, shall require the concurrence of a majority of all members then holding office on the City Council, including the Mayor, unless otherwise expressly provided by the Code or any other act governing the passage of any ordinance, resolution, or motion; provided that, where the Council consists of an odd number of Aldermen, the vote of the majority of the Aldermen shall be sufficient to pass an ordinance. The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the City Council. In

addition, the corporate authorities at any meeting may by unanimous consent to take a single vote by yeas or nays on the several questions of the passage on any two (2) or more of the designated ordinances, orders, resolutions or motions placed together for voting purposes in a single group. The single vote shall be entered separately in the journal under the designation "omnibus vote", and in such event the Clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case in lieu of entering names of the members of City Council voting "yea" and of those voting "nay" on the passage of each of the designated ordinances, orders, resolutions and motions included in such omnibus group or consent agenda. The taking of such single or omnibus vote and such entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance with the requirements of this section to all intents and purposes and with like effect as if the vote in each case had been separately by yeas and nays on the question of the passage of each ordinance, order, resolution and motion included in such omnibus group, and separately recorded in the journal. Likewise, the yeas and nays shall be taken upon the question of the passage of any other resolution or motion at the request of any Alderman and shall be recorded in the journal. **(65 ILCS 5/3.1-40-40)**

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

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

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

1-2-17 - 1-2-18 **RESERVED.**

DIVISION IV - GENERAL PROVISIONS

1-2-19 **CORPORATE SEAL.**
(A) The seal provided by the Council, consisting of the words, "City of Herrin" around the outer edge of the seal, shall be and hereby is established and declared to be the seal of the City of Herrin, Illinois. **(65 ILCS 5/2-2-12)**

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

1-2-20 ELECTIONS.

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

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

1-2-21 APPOINTMENT OF ELECTED OFFICIALS.

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

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

1-2-22 MUNICIPAL OFFICERS - REGULATIONS.

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

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

(1) No person shall be eligible for any appointive municipal office unless that person is a qualified elector of the municipality or otherwise provided by law.

(2) The residency requirements do not apply, however, to municipal engineers, health officers, attorneys, or other officers who require technical training or knowledge, to appointed city treasurers, or to appointed city collectors (unless the City has designated by ordinance that the City Clerk shall also hold the office of collector). **(65 ILCS 5/3.1-10-6)**

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

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

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

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

account thereof, and make a report thereof under oath to the City Council prior to the regular meeting of each month. In the report, they shall specify from whom such fees were received, for what service, and when received. All fees received shall be paid over into the City Treasury.

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

(H) **Conservators of Peace.**

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

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

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

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

(65 ILCS 5/3.1-15-20)

(See "Administration of Oaths", Section 1-2-63)

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

1-2-24 QUALIFICATIONS; ELECTIVE OFFICE.

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

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

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

(D) If a person (i) is a resident of a municipality immediately prior to the active duty military service of that person or that person’s spouse, (ii) resides anywhere outside of the municipality during that active duty military service, and (iii) immediately upon completion of that active duty military service is again a resident of the municipality, then the time during which the person resides outside the municipality during the active duty military service is deemed to be time during which the person is a resident of the municipality for purposes of determining the residency requirement under subsection (A).
(65 ILCS 5/3.1-10-5)

1-2-25 BONDS OF CITY OFFICERS.

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

(1)	Mayor	\$100,000.00
(2)	City Treasurer	\$100,000.00
(3)	City Clerk	\$100,000.00
(4)	City Collector	\$50,000.00
(5)	Police Chief	\$100,000.00

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

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

1-2-26 LIABILITY INSURANCE.

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

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

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

1-2-27 BIDDING AND CONTRACT PROCEDURES.

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

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

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

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

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

(F) **Bid Opening Procedure.**

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

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

(3) **Tabulation.** A tabulation of all bids received shall be made by the City Council 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.
- (j) Whether the bidder has furnished a Certificate of Insurance indicating Worker's Compensation and Employers' Liability coverage and the policy limits for such coverage.

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

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

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

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

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

1-2-28 INTERESTS IN CONTRACTS PROHIBITED.

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

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

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

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

- (1) If:
 - (a) the contract is with a person, firm, partnership, association in which the interested member of the governing body of the municipality member has less than a **seven and one-half percent (7 ½%)** share in the ownership;
 - (b) the interested member publicly discloses the nature and extent of the interest before or during deliberations concerning the proposed award of the contract;
 - (c) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum);
 - (d) the contract is approved by a majority vote of those members presently holding office;
 - (e) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds **One Thousand Five Hundred Dollars (\$1,500.00)** (but the contract may be awarded without bidding if the amount is less than **One Thousand Five Hundred Dollars (\$1,500.00)**); and
 - (f) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Twenty-Five Thousand Dollars (\$25,000.00)**.
- (2) If:
 - (a) the award of the contract is approved by a majority vote of the governing body of the municipality (provided that the interested member shall abstain from voting);
 - (b) the amount of the contract does not exceed **Two Thousand Dollars (\$2,000.00)**;
 - (c) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Four Thousand Dollars (\$4,000.00)**;
 - (d) the interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
 - (e) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum).
- (3) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:
 - (a) the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a **one percent (1%)** share in the ownership; and
 - (b) the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and

- (c) such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
- (d) such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

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

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

(E) Nothing contained in this Section, including the restrictions set forth in subsections (B) and (C), shall preclude a contract of deposit of moneys, loans, or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member of the governing body of the municipality is interested in the bank or savings and loan association as an officer or employee or as a holder of less than **seven and one-half percent (7 ½%)** of the total ownership interest. A member holding an interest described in this subsection (E) in a contract does not hold a prohibited interest for purposes of this Act. The interested member of the governing body must publicly state the nature and extent of the interest during deliberations concerning the proposed award of the contract but shall not participate in any further deliberations concerning the proposed award. The interested member shall not vote on the proposed award. A member abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of the contract shall require approval by a majority vote of those members presently holding office. Consideration and award of a contract in which a member is interested may only be made at a regularly scheduled public meeting of the governing body of the municipality.

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

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

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

governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal governing body.

(65 ILCS 5/3.1-55-10)

1-2-29 SALARIES REGULATION.

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

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

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

EDITOR'S NOTE: The salary of appointed officials and employees may be established in the appropriation ordinance or annual budget. The salary of elected officials must be established in an ordinance other than the appropriation ordinance at least **one hundred eighty (180) days** before the beginning of the terms of the officers whose compensation is to be filed. **(See Section 1-4-1)**

1-2-30 CLAIMS PRESENTATION.

(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 first Monday of each month** to the City Clerk. All such claims must be in writing and items shall be specified.

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

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

1-2-32 EXPENSE REIMBURSEMENT POLICY.

(A) **Definitions.**

(1) "Entertainment" includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.

(2) "Public Business" means the expenses incurred in the performance of a public purpose which is required or useful for the benefit of the City to carry out the responsibilities of City business.

(3) "Travel" means any expenditure directly incident to official travel by employees and officers of the City or by wards or charges of the City involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.

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

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

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

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

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

(2) Alcohol shall be excluded from reimbursement.

(F) Meal expense reimbursement shall be calculated using the per diem rates on www.gsa.gov.

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

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

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

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

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

1-2-35 **ILLINOIS MUNICIPAL RETIREMENT FUND.**

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

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

(C) **Coverage.** To be eligible to be included in the IMRF a person shall have to work a minimum of **one thousand (1,000) hours** per year.

1-2-36 **CONTROL OF PROPERTY OWNED BY CITY OUTSIDE OF CITY LIMITS.**

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

1-2-37 **CERTIFICATES OF INSURANCE.**

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

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

DIVISION V - VACANCIES

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

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

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

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

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

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

1-2-41 **VACANCY BY OTHER CAUSES.**

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

(B) **Guilty of a Criminal Offense.** An admission of guilt of a criminal offense that upon conviction would disqualify the municipal officer from holding the office, in the form of a written agreement with State or federal prosecutors to plead guilty to a felony, bribery, perjury, or other

infamous crime under State or federal law, constitutes a resignation from that office, effective on the date the plea agreement is made. For purposes of this Section, a conviction for an offense that disqualifies a municipal officer from holding that office occurs on the date of the return of a guilty verdict or, in the case of a trial by the court, on the entry of a finding of guilt.

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

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

1-2-43 APPOINTMENT TO FILL ALDERMAN VACANCY. An appointment by the Mayor or acting Mayor, as the case may be, of a qualified person as described in **Section 1-2-23** of this Code to fill a vacancy in the office of Alderman must be made within **sixty (60) days** after the vacancy occurs. Once the appointment of the qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment fails to receive the advice and consent of the corporate authorities within **thirty (30) days**, the Mayor or acting Mayor shall appoint and forward to the corporate authorities a second qualified person as described in **Section 1-2-23**. Once the appointment of the second qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment of the second qualified person also fails to receive the advice and consent of the corporate authorities, then the Mayor or acting Mayor, without the advice and consent of the corporate authorities, may make a temporary appointment from those persons who were appointed but whose appointments failed to receive the advice and consent of the corporate authorities. The person receiving the temporary appointment shall serve until an appointment has received the advice and consent and the appointee has qualified or until a person has been elected and has qualified, whichever first occurs.

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

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

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

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

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

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

(65 ILCS 5/3.1-10-50)

1-2-47 - 1-2-49 **RESERVED.**

ARTICLE III - OFFICIALS

DIVISION I - MAYOR

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

1-3-2 **MAYOR PRO-TEM; TEMPORARY CHAIRMAN.**

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

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

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

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

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

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

1-3-5 **APPOINTMENT OF OFFICERS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1-3-14 **AUDITOR – NOMINATED.**

(A) **Nominee.** Each year, as soon as it may practicably done, the Mayor shall refer the name of a person, persons or a firm to the City Council as a nominee for the purpose of entering into the performance of independent contractual services to prepare and complete the regular audit of the City revenues and expenditures required under the laws of the State or as established by the City Council.

(B) **Acceptance.** Upon making said nomination the City Council shall take action to either confirm or reject the same by a majority vote. **(Ord. No. 33-93; 11-22-93)**

1-3-15 **RESERVED.**

DIVISION II - CITY CLERK

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

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

1-3-18 **PUBLICATION OF ORDINANCES; COUNCIL MINUTES; RECORDS.**

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

(B) **Minutes; Records.**

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

(2) **Closed Meetings.** The Clerk shall prepare and preserve the minutes of closed meetings according to the provisions of the Closed Meetings Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(65 ILCS 5/3.1-30-10 and 5/3.1-10-45 and 5/3.1-35-95)

1-3-31 **SUBMIT APPROPRIATION TO CITY COUNCIL.** The City Clerk shall on or before the **fifteenth (15th) day of May in each year**, and before the annual appropriations to be made by the City Council, submit to the City Council a report of his estimates as nearly as may be, of moneys necessary to defray the expenses of the corporation during the current fiscal year. He shall, in said report, classify the different objects and branches of expenditures, giving as nearly as may be the amount required for each; and for the purpose of making such a report, he is hereby authorized to require of all officers, their statement of the condition and expenses of their respective offices or departments, with any proposed improvements, and the probable expense thereof, all contracts made and unfinished and the amount of any and all unexpended appropriations of the preceding year. He shall in such report, show the aggregate income of the preceding fiscal year, from all sources, the amount of liabilities outstanding upon which interest is to be paid, the bonds and debts payable during the year,

when due and when payable; and in such report, he shall give such other information to the City Council as he may deem necessary to the end that the City Council may fully understand the money exigencies and demands upon the corporation for the current year.

1-3-32 – 1-3-33 RESERVED.

DIVISION III - CITY TREASURER

1-3-34 DEPARTMENT ESTABLISHED. There is hereby established a department of the municipal government of the City which shall be known as the "**Finance Department**". It shall embrace the Finance Committee and the Treasurer.

1-3-35 FINANCE COMMITTEE. The standing committee on Finance shall exercise a general supervision over the affairs of the Finance Department. It shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had and generally, shall do all the acts necessary to promote the efficiency of the Department.

1-3-36 TREASURER ELECTED; VACANCY. The Treasurer shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until a successor is elected and has qualified. All vacancies shall be filled in the manner prescribed in **Division V** of this Chapter. **(65 ILCS 5/3.1-30-5)**

1-3-37 MONEY; WARRANTS; ACCOUNTS; PAYMENTS. The City Treasurer shall receive all monies belonging to this City and shall pay all warrants signed by the Mayor and countersigned by the City Clerk and not otherwise; and shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. The Treasurer shall give to every person paying money into the City Treasury a receipt therefor, specifying the date of payment, and upon what account paid, and shall file copies of such receipts with the Clerk with the monthly reports. **(65 ILCS 5/3.1-35-40)**

1-3-38 WARRANT REGISTER. The Treasurer shall keep a register of all warrants redeemed and paid, showing the number, date, and amount of each, the fund from which paid, and the name of the person to whom and when paid; and the Treasurer shall cancel all warrants as soon as they are redeemed. **(65 ILCS 5/3.1-35-40 and 5/3.1-35-45)**

1-3-39 PERSONAL USE OF FUNDS. The City Treasurer shall keep all money belonging to the Municipality and in the Treasurer's custody separate and distinct from the Treasurer's own money and shall not use, either directly or indirectly, the Municipality's monies or warrants for the personal use and benefit of the Treasurer or of any other person. Any violation of this provision shall subject the Treasurer to immediate removal from office by the corporate authorities, who may declare the Treasurer's office vacant. **(65 ILCS 5/3.1-35-55)**

1-3-40 BOND. The Treasurer shall give bond conditioned upon the faithful performance of his duties and to indemnify the City for any loss due to neglect of duty or wrongful act on his part; and the amount of such bond shall not be less than **ten percent (10%)** of the highest amount of taxes and special assessments received by the Treasurer during any fiscal year in the preceding **five (5) fiscal**

years, nor less than one and one-half times the largest amount which the Council estimates will be in his custody at any one time, nor less than **three (3) times** the number of residents of the City, as determined by the last Federal Census. Such bond shall be filed with the Clerk as required by statute. **(65 ILCS 5/3.1-10-45)**

1-3-41 **SPECIAL ASSESSMENTS.** The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. **(65 ILCS 5/3.1-35-85)**

1-3-42 **BOOKKEEPING.** The Treasurer shall keep the books and accounts in such a manner as to show with accuracy, all monies received and disbursed for the City, stating from whom and on what account received, and to whom and on what account paid out, and in such a way that the books and accounts may be readily investigated and understood, and the books and accounts and all files and papers of the office shall be, at all times, open to examination by the Mayor or the Finance Committee of the Council. **(65 ILCS 5/3.1-35-40)**

1-3-43 **STATEMENTS.** The Treasurer shall report to the corporate authorities at the regular monthly meeting, a full and detailed account of all receipts and expenditures of the municipality as shown by his books up to the time of the report. **(65 ILCS 5/3.1-35-45)**

1-3-44 **REPORT DELINQUENT OFFICERS.** It shall be the duty of the Treasurer to report to the City Clerk any officer of the City authorized to receive money for the use of the City who may fail to make a return of the monies received by the Treasurer at the time required by law or by ordinances of the City.

1-3-45 **YEAR-END REPORT.** Within **six (6) months** after the end of each fiscal year, the Treasurer shall prepare and file annually with the City Clerk an account of monies received and expenditures incurred during the preceding fiscal year as specified in this section. The Treasurer shall show the following in such account:

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

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

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

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

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

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

1-3-46 DEPOSIT OF FUNDS.

(A) **Designation by Council.** The Treasurer is hereby required to keep all funds and monies in his or her custody belonging to the City in such places of deposit as have been designated by **Section 1-3-46(F)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and monies of the City in the custody of the Treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the Village Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

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

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

(D) Each Village Treasurer may:

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

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

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

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

- (1) Bank of Herrin, Herrin, IL
- (2) First Southern Bank, Herrin, IL
- (3) Southern Illinois Bank, Herrin, IL
- (4) People’s National Bank, Herrin, IL
- (5) Banterra Bank, Herrin, IL
- (6) Farmer’s State Bank, Herrin, IL

(Ord. No. 2-2023; 01-23-23)

1-3-47 RESERVED.

DIVISION IV - JUDICIARY

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

1-3-49 **SALARY.** The City Attorney shall receive an annual salary as the Mayor and City Council establish in the annual budget or may designate at the time of appointment. The base salary for the City Attorney shall be **Seven Thousand Five Hundred Dollars (\$7,500.00)** per annum. **(Ord. No. 12-78; 05-22-78)**

1-3-50 **SCOPE.** The salary provided for above relates to and shall be compensation for the ordinary and usual legal work to be done by the City Attorney, but will and shall not include compensation in reference to or attendant to bond issues and trial of lawsuits (other than small claims and traffic), or other extraordinary services. **(Ord. No. 31-69; 10-13-69)**

1-3-51 **EXTRAORDINARY SERVICES.** The City Attorney shall receive additional compensation for legal services rendered attendant to bond issues, the trial of lawsuits other than small claims and traffic cases, and for other extraordinary services in an amount to be determined by the Mayor and City Council with reference to the then prevailing Bar Association Rates of the Illinois State Bar Association. **(Ord. No. 31-69; 10-13-69)**

1-3-52 **ADDITIONAL LEGAL COUNSEL.** The Mayor and the City Council, on request of the City Attorney may, in its discretion, on proper terms to be stated at the time, retain additional legal counsel for the purpose of the trial of law suits or other services. **(Ord. No. 31-69; 10-13-69)**

1-3-53 **DUTIES.**
(A) **Prosecute for City.** The City Attorney shall prosecute or defend on behalf of the City in all cases in which the interests of the corporation or any officer thereof are involved; and the City Clerk shall furnish him with certified copies of any ordinance, bond, or paper in his keeping necessary to be filed or used in any suit or proceedings.

(B) **Preparation of Ordinances.** He shall, when required, advise the City Council or any officer in all matters of law in which the interests of the corporation are involved, and 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 City Council, or any committee thereof.

(C) **Judgments.** He shall direct executions to be issued upon all judgments recovered in favor of the City, and 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.

(D) **Commissions.** The City Attorney shall act as the legal advisor for the City Water and Sewer Commission and for the Planning and Zoning Commission of the City and he shall perform the legal services required of said Commissions.

(E) **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, City Council or any committee thereof.

1-3-54 **PROSECUTOR'S FEE.**
(A) For each complaint that is prosecuted on behalf of the City to enforce the provisions of general ordinances of the City, and also to enforce provisions of the State statutes, statutes affecting the affairs of the City, there shall be added as costs to be assessed against the defendant in each case the sum of **One Hundred Dollars (\$100.00)**, to be known as "City Prosecutor's Fee".

(B) Upon said defendant being found guilty of the charges as set up in the complaint that is filed on behalf of the city in either of the two above named situations, it shall be the duty of the Court before whom such matter is heard to assess a City Prosecutor's Fee in the sum of **Two Hundred**

Fifty Dollars (\$250.00) which shall be paid directly to the City Clerk by the Clerk of the Court, and that the fine or penalty as assessed by the Court for the violation of the complaint shall be paid also to the City Clerk. **(Ord. No. 4-96; 01-22-96)**

1-3-55 RESERVED.

DIVISION V - CITY ENGINEER

1-3-56 APPOINTMENT – DESIGNATED CODE ENFORCEMENT OFFICER AND BUILDING COMMISSIONER. The Mayor, with the advice and consent of the City Council may appoint an Engineer for the City, who shall serve for the term of the Mayor, or for such period not exceeding the term of the Mayor, as may be designated by the Mayor and the City Council.

1-3-57 DUTIES - SALARY. The Engineer for the City shall make and submit plans, estimates and specifications for any public work which may be proposed or ordered by the City Council. He shall also examine all public works under his charge and see that the plans, estimates and specifications for the same are properly executed. He shall receive a salary as established in the annual budget.

1-3-58 - 1-3-59 RESERVED.

DIVISION VI – BUDGET OFFICER

1-3-60 STATUTES ADOPTED. Sections 5/8-2-9.1 through 5/8-2-9.10 of **Chapter 65** of the **Illinois Compiled Statutes**, as amended, are hereby adopted by the City and incorporated herewith by reference.

1-3-61 OFFICE ESTABLISHED. There is hereby established the office of Budget Officer for the City, who shall be appointed by the Mayor, with the approval of the City Council. He shall serve at the pleasure of the corporate authorities of the City.

1-3-62 POWERS AND DUTIES. The powers and duties of the Budget Officer shall be those powers and duties as are or may in the future be designated, stated or expressed in the laws of the State of Illinois.

The City Budget Officer shall prepare monthly utility bills, send out statements and receive collections for the same, and perform any similar functions necessary for the proper execution of said office so designated by the City Council.

1-3-63 OFFICE. The Budget Officer shall maintain and operate his office in conformity with current Illinois law.

1-3-64 SALARY. The Budget Officer shall receive an annual salary as provided in the annual budget.

1-3-65 **PROCEDURE.** The proper method of business called for in Section 5/8-2-9.9 of **Chapter 65** of the **Illinois Compiled Statutes**, as amended, shall be:

- (A) An incorporation of the tentative annual budget into the Minutes of the proceedings of the corporate authorities of the City, and
- (B) The filing and placing of a copy of the tentative annual budget for such inspection in the City Clerk's office in the City Hall.

1-3-66 **BUDGET SUPERVISION.** The authority is hereby delegated to the head of municipal departments, boards and commissions to act in and for the City to delete, add to, change or create subclasses within object classes budgeted previously to the department, board or commission, subject to such limitation or requirement for prior approval by the Budget Officer or Mayor of the City.

[Unless Otherwise Noted, this Division Ord. No. 32-69; 10-13-69]

1-3-67 **RESERVED.**

DIVISION VII – ADMINISTRATOR OF CODES

1-3-68 **CREATED.** There is hereby created the office of Administrator of Building Codes, Health Codes, Zoning and Fire Prevention.

1-3-69 **SALARY.** The salary of the Administrator shall be established by ordinance.

1-3-70 **DUTIES.** The Administrator's duties shall be as follows:
(A) Administer the Zoning Codes, Building Codes, Health Codes, and Fire Prevention Codes of the City.
(B) He shall maintain offices at the City Hall Building.
(C) His hours shall be **eight o'clock (8:00) A.M.** to **five o'clock (5:00) P.M.**

1-3-71 **FIREMAN AS ADMINISTRATOR.** In the event the holder of this office shall be a fireman, he shall be required to carry a communication device in order to maintain constant direct contact with the Fire Station in the event he is called upon to perform his duties as a fireman.

1-3-72 **SEVERABLE POSITION AS ADMINISTRATOR/FIREMAN.** In the event the holder of this office is a fireman, his rank, pay and remuneration as a fireman shall be separate and distinct from his pay as Administrator, and in the event of his termination from the position created by this Division, said termination shall have no effect on his rank, salary and position within the Fire Department of the City.

1-3-73 **RESPONSIBILITY.** In the event the holder of this office is a fireman, he shall be responsible to the Mayor and City Council directly for his acts as Administrator and shall be responsible to the Fire Chief and the Board of Fire and Police Commissioners for his acts as a fireman.

1-3-74 **CONSOLIDATION.** It is the intention of the City Council in passing this Division to absorb and consolidate into the office of Administrator all of the functions of the former Office of Codes Inspector, and to add to that office the additional duties of Fire Prevention.

1-3-75 **INTERPRETATION.** In the event a court of competent jurisdiction someday rules that the termination of the Codes Inspector or the abolition of the Office of Codes Inspector by the City Council on **January 14, 1980**, was in any way legally defective, resulting in the continuance of said office to this date, it is the intention of this Council that said Office of Building Codes Inspector be wholly merged into the office created by this Division; and that the appointment by the Mayor of an Administrator hereunder shall act as an appointment of a successor to the office of Building and Codes Inspector under the previous ordinances.

[Unless Otherwise Noted, This Division Ord. No. 1-80; 02-11-80]

1-3-76 **RESERVED.**

DIVISION VIII – PUBLIC WORKS FOREMAN

1-3-77 **OFFICE CREATED.** There is hereby created the position of Public Works Foreman, an executive office of the City. **(Ord. No. 19-81; 05-11-81)**

1-3-78 **APPOINTMENT.** The Public Works Foreman shall be appointed by the Mayor, by and with the advice and consent of the City Council. **(Ord. No. 19-81; 05-11-81)**

1-3-79 **DUTIES.** The Public Works Foreman shall exercise those duties described in **Section 38-1-3** of this Code. He shall have operational supervision over all public works functions of the City, including Water and Sewer Services, Street and Alley Services, Cemetery Services, and Landfill Services, and their Employees. Policy decisions in these departments are reserved to the Mayor and the Council. **(Ord. No. 19-81; 05-11-81)**

1-3-80 **RESERVED.**

DIVISION IX - WARDS

1-3-81 **WARD BOUNDARIES.** For the purposes of municipal elections and electing aldermen to the City Council, the City is hereby divided into **four (4) wards**, as follows:

(A) The First Ward shall include all that part of the City lying North of the centerline of the Illinois Central right-of-way and East of the centerline of Park Avenue.

(B) The Second Ward shall consist of and include all that part of the City lying West of the centerline of Park Avenue and North of the centerline of the Illinois Central right-of-way.

(C) The Third Ward shall include all that part of the City lying South of the centerline of the Illinois Central right-of-way and West of Park Avenue.

(D) The Fourth Ward shall consist of all that part of the City lying South of the centerline of the Illinois Central right-of-way and East of the centerline of Park Avenue.

ARTICLE IV - MANAGEMENT ASSOCIATION

1-4-1 **PARTICIPATION.** The City Council does hereby authorize and approve membership in the Illinois Municipal League Risk Management Association and directs the Mayor and Clerk to execute an Intergovernmental Cooperation Contract with the Illinois Municipal League Risk Management Association for membership for a period of **one (1) year** beginning the date the Association commences providing risk coverage to its members and each year thereafter unless this Article is repealed.

1-4-2 **CONTRIBUTION.** Each member hereby agrees to contribute to the Association a sum of money to be determined by the Association at the time of application based on the needs of the Association and the loss experience of the Member, which sum shall constitute the cost of the Member's first year contribution for membership in the Association. Membership contributions for second and subsequent years shall be calculated in accordance with the loss experience of the City, and the needs of the Association including total losses and expenditures of the Self-Insured Retention Fund of the Association.

(Ord. No. 8-2024; 10-28-24)

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. **(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)

NAME OF APPLICANT: _____

NAME OF COMPANION: _____

ADDRESS: _____

TELEPHONE: _____ CELL NO.: _____

DATE OF NEEDED AUXILIARY AID OR SERVICE: _____

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

DATE: _____ SIGNED: _____

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

CHAPTER 2 – ADMINISTRATIVE ADJUDICATION

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CHAPTER 2

ADMINISTRATIVE ADJUDICATION

ARTICLE I – GENERALLY

2-1-1 **CREATION OF A SYSTEM OF ADMINISTRATIVE ADJUDICATION.** The City of Herrin (City) pursuant to Article I, Division 2.1 of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1 *et seq.*, hereby establishes a system of administrative adjudication, subject to the limitations of this Chapter, that provides due process of law, including notice and an opportunity for a hearing for all affected persons. In the event a conflict between this Chapter and Article I, Division 2.1 of the Illinois Municipal Code exists, then the Illinois Municipal Code shall prevail.

2-1-2 **ESTABLISHMENT OF CODE HEARING UNIT.**

(A) There is hereby established a Code Hearing Unit within the City that is responsible for conducting adjudicatory hearings, exercising the powers conferred in this Chapter and in the manner set out in this Chapter.

(B) The Code Hearing Unit shall have jurisdiction to adjudicate all alleged violations of the Code, except for: (1) proceedings not within the statutory authority of the City; (2) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and, (3) any reportable offense under Section 6-204 of the Illinois Vehicle Code.

(C) The establishment of the Code Hearing Unit does not preclude the City from using other methods to enforce the provisions of its Code.

(D) The Code Hearing Unit shall consist of one or more Hearing Officers, as that term is defined herein, and such other agents or employees assigned to assist the Hearing Officer by the City.

2-1-3 **DEFINITIONS.** For this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **"Adjudicatory Hearings"** means any hearing called by the Code Hearing Unit pursuant to this Chapter.

(B) **"Code"** means the City's Code of Ordinances.

(C) **"Code Hearing Unit"** is defined in **Section 2-1-2**, herein.

(D) **"Complaint"** means a written pleading, filed with the Code Hearing Unit by an authorized official of the City, which alleges a violation of the Code.

(E) **"Final Administrative Order"** is defined in **Section 2-1-7**, herein.

(F) **"Hearing Officer"** means an agent of the City whose duty it is to:

- (1) hear testimony and accept evidence that is relevant to the existence of an alleged violation of the Code;
- (2) issue subpoenas directing witnesses to appear and give relevant testimony at the adjudicatory hearing, upon the request of the parties or their representatives;
- (3) preserve and authenticate the record of the adjudicatory hearing and all exhibits and evidence introduced at the adjudicatory hearing;
- (4) issue a determination, based on the evidence presented at the adjudicatory hearing, of whether or not a violation of the Code exists; and,
- (5) impose penalties consistent with applicable provisions of the Code and assess costs upon finding a party liable for the charged violation, except, however, that in no event shall the Hearing Officer have authority to (i) impose a penalty of incarceration; or, (ii) impose a fine either in excess of **Fifty Thousand Dollars (\$50,000)**, or such other amount not to

exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the judicial circuit in which the City is located. Any such fine imposed under this Chapter shall be exclusive of costs of enforcement or costs imposed to secure compliance with the code and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City.

(G) A "***Non-Emergency Situation***" means any situation that does not reasonably constitute a threat to the public interest, safety or welfare.

2-1-4 REQUIREMENTS OF HEARING OFFICERS.

(A) Any attorney licensed to practice law in the State of Illinois for at least **three (3) years** may be a Hearing Officer, provided that he or she complies with the provisions of this Section.

(B) Prior to conducting adjudicatory hearings, Hearing Officers shall have successfully completed a formal training program which includes the following:

- (1) instruction on the rules of procedure of the administrative hearings which they will conduct;
- (2) orientation to each subject area of the Code violations that they will adjudicate;
- (3) observation of administrative hearings; and,
- (4) participation in hypothetical cases, including ruling on evidence and issuing final orders.

(C) A person who has served as a judge in Illinois is not required to fulfill the requirements of subsection (B), herein.

(D) Any person seeking to be appointed as a Hearing Officer for the City must present evidence of his or her compliance with this Section to the corporate authorities, in such form as deemed appropriate by the corporate authorities.

2-1-5 PROCEEDINGS FOR ADJUDICATORY PROCEEDINGS.

(A) The filing of the Complaint shall serve to institute proceedings before the Code Hearing Unit.

(B) Parties shall be served with process in a manner reasonably calculated to give actual notice. For the purposes of this Chapter, "a manner reasonably calculated to give actual notice" shall mean, as appropriate, personal service of process upon a party, its employee or its agent; service by first-class mail at a party's address; or notice that is posted upon the property where the alleged Code violation is found when the party is the owner or manager of the property. If the City requires the party to respond to the Complaint within a specified amount of time, the City shall file a reply with the Code Hearing Unit within the same amount of time afforded to the party responding to the Complaint.

(C) Parties shall be given notice of any adjudicatory hearing. Said notice must, at a minimum, include: (i) the type and nature of the Code violation to be adjudicated; (ii) the date and location of the adjudicatory hearing; (iii) the legal authority and jurisdiction under which the adjudicatory hearing is to be held; and, (iv) the penalties for failure to appear at the adjudicatory hearing.

(D) Parties shall be provided with an opportunity for an adjudicatory hearing during which they may be represented by counsel, present witnesses and cross-examine opposing witnesses. Parties may request the Hearing Officer to issue subpoenas to direct the attendance and testimony of relevant witnesses, as well as the production of relevant documents.

(E) Adjudicatory hearings shall be scheduled with reasonable promptness, provided that for adjudicatory hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant shall have at least **fifteen (15) days** after service of process to prepare for an adjudicatory hearing. If service is provided by mail, the **fifteen (15) day** period shall begin to run on the day that the notice is deposited in the mail.

2-1-6 HEARING; EVIDENCE. The formal and technical rules of evidence shall not be applied in an adjudicatory hearing under this Chapter. The Hearing Officer may accept any evidence, including hearsay, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

2-1-7 FINDINGS, DECISIONS AND ORDER.

(A) At the conclusion of the adjudicatory hearing, the Hearing Officer shall make a determination (the "Final Administrative Decision"), based on the evidence presented at the adjudicatory hearing, of whether or not a violation of the Code exists. The Final Administrative Decision shall be in writing and shall include a written finding of fact, decision and order including the fine, penalty or action with which the defendant must comply.

(B) A copy of the Final Administrative Decision shall be served on the Parties within **five (5) days** after issuance. The Final Administrative Decision shall be served in a manner allowed by **Section 2-1-5(B)**, unless the parties agree to an alternative form of service.

(C) Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the Code.

2-1-8 REVIEW UNDER ADMINISTRATIVE REVIEW LAW.

Any Final Administrative Decision by a Code Hearing Unit, that a Code violation does or does not exist, shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law, **735 ILCS 5/3-101 et seq.**

2-1-9 JUDGMENT ON FINDINGS, DECISION AND ORDER.

(A) Any fine, other sanction or costs imposed, or part of any fine, other sanction or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the City and may be collected in accordance with applicable law.

(B) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a Final Administrative Decision of a Code violation, unless stayed by a court of competent jurisdiction, the findings, decision and order of the Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(C) In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a Code violation or imposing any fine or other sanction as a result of a Code violation, any expenses incurred by a City to enforce the judgment, including, but not limited to, attorney's fees, court costs and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a Hearing Officer, shall be a debt due and owing the City and may be collected in accordance with applicable law. Prior to any expenses being fixed by a Hearing Officer pursuant to this subsection, the City shall provide notice to the defendant that states that the defendant shall appear at a hearing before the Hearing Officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than **seven (7) days** from the date that notice is served. If notice is served by mail, the **seven (7) day** period shall begin to run on the date that the notice was deposited in the mail.

(D) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure, **735 ILCS 5/12-101 et seq.**, or by the Uniform Commercial Code, **810 ILCS 5/1-101 et seq.**, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the City under this Chapter. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

(E) A Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within **twenty-one (21) days** after the issuance of the order of default, if the Hearing Officer determines that the defendant's failure to appear at the adjudicatory hearing was for good cause or at any time if the defendant establishes that the City did not provide proper service of process. If any judgment is set aside pursuant to this subsection, the Hearing Officer shall have the authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the City as a result of the vacated default judgment.

(Ord. No. 32-2023; 11-28-23)

CHAPTER 3 - ANIMALS

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CHAPTER 3

ANIMALS

ARTICLE I - GENERAL REGULATIONS

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

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

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

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

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

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

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

"DANGEROUS DOG" means:

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

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

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

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

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

"FERAL CAT" means a cat that:

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

- (B) is a formerly owned cat that has been abandoned and is no longer socialized, or
 (C) lives on a farm.

(510 ILCS 5/2.11b)

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

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

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

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

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

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

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

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

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

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

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

"SHELTER", as it applies to dogs, shall mean a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a solid floor raised at least **two inches (2")** from the ground and with the entrance covered by a flexible, windproof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness. **(In General Ord. No. 6-2019; 04-08-19)**

"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.

"WEATHER, EXTREME". Any weather that places an animal in danger of injury or death. Extreme weather can be classified as torrential downpours, ice and snow storms, dangerous wind chills and heat indexes, etc. When extreme weather comes into play, it will be to the discretion of the animal control officer as to if steps beyond standard owner responsibilities need to be taken to prevent injury and/or death of an animal based on characteristics of the breed in question, age of the animal, health of the animal, type of fur coat, etc. Animal Control Officers will also take into consideration the overall weather conditions, such as sunny versus cloudy, strong winds versus gentle breeze, etc. **(Ord. No. 6-2019; 04-08-19)**

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

3-1-3 INJURY TO PROPERTY.

(A) **Unlawful.** It shall be unlawful for any person owning or possessing 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. The animal's area must be kept safe from falling debris as well as trash and unnecessary items and debris. **(Ord. No. 47-2020; 11-23-20)**

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

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

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

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

3-1-6 CRUELTY TO ANIMALS PROHIBITED.

(A) **Cruelty to Animals Prohibited.** It shall be unlawful for any person to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act, omission or neglect, cause or inflict any unnecessary or unjustifiable pain, suffering, injury or death to any animal, whether such animal belongs to such person or to another, except that reasonable force may be employed to drive away vicious or trespassing animals. Any unwanted animals should be delivered to the County Animal Control Facility for proper disposal.

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

3-1-7 EXHIBITING WILD OR VICIOUS ANIMALS.

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

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

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

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

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

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

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

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

(B) **Limitation; Exception.**

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

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

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

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 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 **Twenty-Five Dollars (\$25.00)** 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) Prior to a license being granted to an applicant, the applicant must show proof of notice to all adjacent

- landowners except landowners that are municipalities or utilities.
- (ii) Coops over **one hundred twenty (120) square feet** will require a building permit.
 - (iii) 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.
 - (iv) 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.
 - (v) The coop and run shall be located at least **five (5) feet** from the property line and at least **twenty-five (25) feet** from any dwelling.
 - (vi) Coop licenses shall not run with the land.
 - (vii) 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.
 - (viii) 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.
 - (ix) 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.
 - (x) Applications shall be submitted to the City Clerk's office.
 - (xi) No person shall slaughter any Hobby Animal within City limits in view of the public.
 - (xii) 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.
 - (xiii) 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.
 - (xiv) 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.
 - (xv) 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.
 - (xvi) 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.

- (xvii) 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.

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 on the neighbor's property or in unoccupied structures in the City.

3-1-12 ILLINOIS ANIMAL CONTROL ACT. Nothing in this Chapter should be construed to conflict with **510 ILCS 5** and its amendments; provided that this Chapter may expand upon that act pursuant to **510 ILCS 5/24**.

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

ARTICLE II - DOGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(510 ILCS 5/10)

3-2-9 IMPOUNDMENT FEES.

(A) The fee for all animals impounded by the City shall be **Fifty Dollars (\$50.00)** for impounding and **Five Dollars (\$5.00)** per day for boarding. The impounding fee shall be due when the animal is brought to the pound, and daily boarding fees shall begin the day the animal is delivered to the pound.

(B) These fees shall be assessed against the owner of any animal brought to the pound. In the event the same animal is impounded more than once within a **twelve (12) month** period, the impoundment fees shall increase as follows:

- (1) First impoundment – **Fifty Dollars (\$50.00)**
- (2) Second impoundment – **One Hundred Dollars (\$100.00)**
- (3) Third impoundment – **One Hundred Fifty Dollars (\$150.00)**

The impoundment fee shall increase in **Fifty Dollar (\$50.00)** increments for each impoundment during any **twelve (12) month** period.

(C) The euthanasia fee shall be **Fifty Dollars (\$50.00)** and it shall be due and payable when the service is rendered.

(Ord. No. 3-2011; 01-24-11)

(D) **Registration Incentive.** Any Herrin resident who has registered their animal with Herrin Animal Control and has had the animal microchipped may receive **one (1)** annual impoundment fee waiver provided they prove current vaccinations. Registration is free and microchipping is **Twenty Dollars (\$20.00)**. **(Ord. No. 3-2019; 01-28-19)**

3-2-10 CITATIONS.

(A) Citations may be issued to anyone who violates any section of this Chapter and may be delivered personally or left with a family member of at least **thirteen (13) years** of age at the home of the violator, or mailed to the residence of the violator.

(B) On receipt of a citation alleging a violation of any section of this Chapter, the minimum fine provided in this Chapter may be paid at the Office of the City Clerk, provided the fine is paid within **seven (7) days** of the citation.

(C) After **seven (7) days** have elapsed from the date of the issuance of the citation, and the citation remains unpaid, it may be filed in the Office of the Circuit Clerk for prosecution. Upon conviction of a violation of this Chapter, a fine as provided by **Section 1-1-20** shall be assessed.

3-2-11 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.

3-2-12 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.

3-2-13 IMPOUNDMENT OF DOGS WHICH HAVE BITTEN PERSONS. Any dog which shall have bitten or otherwise injured any person so as to cause an abrasion of the skin shall be immediately taken, impounded and kept separated from other dogs for **ten (10) days**. If, during that period, such dog develops symptoms of illness, a veterinarian shall be called to diagnose its condition. If the symptoms disclosed are such as to indicate the presence of rabies, such dog shall be destroyed in such a manner, however, as to preserve intact the head, which shall thereupon be detached and immediately sent to the diagnostic laboratory of the Department of Agriculture. In case such dog cannot be safely taken up and impounded, it may be shot, care being taken to preserve the head intact which shall thereupon be immediately detached and be delivered to the diagnostic laboratory of the Department of Agriculture.

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

3-2-14 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.

3-2-15 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.

3-2-16 CITY POUND DESIGNATED. The City Council shall designate a City Pound.

3-2-17 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.

3-2-18 DANGEROUS DOG - FEMALE DOG AT LARGE. It shall be unlawful for the owner or keeper of any vicious or dangerous dog as defined in **Section 3-1-2** or of any female dog, while in heat, to run at large within the limits of this City.

3-2-19 **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.

3-2-20 **CONFINEMENT IN MOTOR VEHICLE.** No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible. **(510 ILCS 70/7.1)**

3-2-21 **VICIOUS ANIMALS PROHIBITED.** It shall be unlawful for any person to bring or transfer into the unincorporated area of the Village any dog or animal that has been declared "vicious" by any unit of local government.

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

ARTICLE III - VICIOUS AND DANGEROUS DOGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IV – TETHERING

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

(A) **Animal Welfare.** A dog that is outside for **one (1) hour** or more, whether fenced, kenneled, or tethered shall have proper food, water, and shelter. Owners and guardians shall be responsible for the welfare of their pets in severe heat, cold, rain, snow, ice, and wind. The animal's area must be kept safe from falling debris as well as trash and unnecessary items and debris. **(Ord. No. 47-2020; 11-23-20)**

(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)

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CHAPTER 4

BOARDS—COMMISSIONS

ARTICLE I – PLANNING COMMISSION

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

4-1-2 **MEMBERSHIP.** The Planning Commission shall consist of **thirteen (13) members**, said members to be residents of the City, appointed by the Mayor on the basis of their particular fitness for their duty on the Planning Commission and subject to the approval of the City Council. (**Ord. No. 3-92; 2-24-92**)

4-1-3 **TERM OF OFFICE.** The members shall serve for a period of **three (3) years**. Vacancies shall be filled by appointment for the unexpired term only. All members of the Commission shall serve without compensation, except that if the Council deems it advisable, they may receive such compensation as provided by the appropriation ordinance.

4-1-4 **PROCEDURE.** The 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 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 Municipal 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 designate land suitable for annexation to the Municipality and the recommended zoning classification for such land upon annexation.

(C) To recommend to the City Council of this City, from time to time, such changes in the comprehensive plan, or any part thereof, as may be deemed necessary.

(D) To prepare and recommend to the City Council, from time to time, plans and/or recommendations for specific improvements in pursuance to the official comprehensive plan.

(E) To give aid to the officials of the City charged with the direction of projects for improvements embraced within the official plan, or parts thereof, to further the making of such improvements and generally to promote the realization of the official comprehensive plan.

(F) To arrange and conduct any form of publicity relative to its activities for the general purpose of public understanding.

(G) To cooperate with municipal or regional planning 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.

(H) 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.

4-1-6 LAND SUBDIVISION OR RE-SUBDIVISION AND THE OFFICIAL MAP. At any time, 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 City 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. **(65 ILCS 5/11-12-12)**

4-1-7 IMPROVEMENTS. The City Clerk shall furnish the Planning Commission, for its consideration, a copy of all ordinances, plans and data relative to public improvements of any nature. The 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 FURTHER PURPOSES. The Commission shall recommend the boundaries of districts for land use and shall recommend regulations to the corporate authorities for the following:

(A) To regulate and limit the height and bulk of buildings hereafter to be erected.

(B) To establish, regulate and limit the building or setback lines on or along the street, traffic-way, drive, parkway, or storm or flood water runoff channel or basin.

(C) To regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of open spaces, within and surrounding such buildings.

(D) To classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential, and other uses.

(E) To divide the entire Municipality into districts of such number, shape, area, and of such different classes, (according to use of land and buildings, height, and bulk of buildings, intensity of the use of lot area, area of open spaces or other classification), as may be deemed best suited to carry out the purpose of this Section.

(F) To fix standards to which buildings or structures therein shall conform.

(G) To prohibit uses, buildings, or structures incompatible with the character of such districts.

(G) To prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed under this Section.

4-1-9 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 therefore. **(65 ILCS 5/11-12 et seq.)**

ARTICLE II - POLICE PENSION BOARD

4-2-1 ESTABLISHED. There shall be a Police Pension Fund established in the City.

4-2-2 BOARD MEMBERS. The Board of Trustees of the Police Pension Fund shall consist of up to **five (5) members**. **Two (2) members** of the Board shall be appointed by the Mayor; **two (2) members** of the Board shall be elected from the regular police force. At such time as there are beneficiaries of the fund, a **fifth (5th) member** shall be elected by and from among the beneficiaries of the fund.

4-2-3 TERM. The members of the Board shall serve for **two (2) years**, or until their successors are appointed and have qualified.

4-2-4 ELECTION OF BOARD MEMBERS. The election provided for in this Article for elected Board members shall be held bi-annually on the **third (3rd) Monday** in April at such place as shall be prescribed by the appointed members of the Board and shall be under the Australian Ballot system.

4-2-5 MEETINGS. The Pension Board shall meet in regular quarterly meetings on the **second (2nd) Tuesday of July, October, January and April**, annually, and special meetings may be called by the President. The regular July meeting shall be an organizational meeting, at which the Board shall select from its members a President, Vice-President, Secretary and Assistant Secretary, to serve for the period of **one (1) year**.

4-2-6 MANAGEMENT OF FUND.

(A) The Trustees shall have the authority to control and manage, exclusively, the Pension Fund, and all moneys donated, paid or assessed for the relief or pension of disabled, superannuated and retired members of the Police Department, their widows, minor children and dependent parents. All moneys shall be placed by the Treasurer of the Municipality to the credit of the Fund, subject to the order of the Board.

(B) To draw such pension funds from the Treasury and invest such funds, or any part thereof, in the name of the Board of Trustees of the Police Pension Fund in interest bearing bonds or tax anticipation warrants of the United States or the State of Illinois, or of any county of this State or of any Township or Municipal Corporation of the State of Illinois, and in insured shares of Federal Chartered Savings and Loan Associations if the shares are insured by the Federal Savings and Loan Insurance Corporation. All securities shall be deposited with the Treasurer of the City and shall any such investment, shall be credited to the account of the Pension Fund.

(C) To appoint a clerk and define his duties provided, however, that no person drawing a pension under this Code shall be employed by the Board as a Clerk.

(D) To provide for the payment from the fund of all necessary expenses including clerk hire, attorney's fees, printing and witness fees; provided that no compensation shall be paid to any member of the Board for any duty required or performed under this Code.

(E) To make all necessary rules and regulations for its guidance in conformity with the provisions of this Code.

4-2-7 **DIRECT PAYMENTS.** The Board shall have the authority to order and direct the payment of pensions and other benefits provided by the Police Pension Act and to issue certificates signed by its President and Secretary to the persons entitled thereto, of the amount ordered paid to such persons from the Fund, which certificate shall state the purpose of the payment.

4-2-8 **DEDUCTIONS.** There shall hereafter be deducted from the salaries of regular police officers of the City, the sum of **five percent (5%)** of their salaries, to be placed in the Police Pension Fund, and there shall also be placed in the Fund such amount as shall annually be levied from general taxes to provide the reserves required by law.

4-2-9 **LEVY TAX.** The City Council shall annually hereafter levy a tax which will produce an amount which, when added to the deductions from the salaries or wages of Policemen and receipts available from all other sources as hereinafter referred to, will equal a sufficient sum to meet the annual requirements of the Pension fund. Such tax shall be levied and collected in like manner with general taxes of the City and shall be in addition to all other taxes now or hereafter authorized to be levied upon all property within the City. In the event that the pension fund in any year, over and above the reserve fund, is sufficient to meet all the demands of those requiring payment therefrom in such year, the City Council may dispense with the levy of such tax. **(40 ILCS 5/3-101 et seq.)**

4-2-10 **RIGHTS, POWERS AND DUTIES OF BOARD AND TREASURER.** In the administration of the Police Pension Fund, the Board of Trustees and the City Treasurer shall have the rights, powers and duties and shall be subject to all the provisions set forth in the Act defined in Section 6.21 of this Code and all amendments thereto.

4-2-11 **ANNUAL REPORT OF BOARD.** The Board of Trustees shall annually prior to the meeting of the City Council held for the purpose of levying taxes for the year, certify to the City Council the following report:

- (A) Assets in their custody at such time.
- (B) Estimated receipts during the next succeeding calendar year from deductions from all sources.
- (C) Estimated amount required during the calendar year
 - (1) Paying all pensions and other obligations provided for in accordance with provisions of Act defined in Section 6.21 of the article.
 - (2) Establishing and maintaining the reserve Fund provided by **Illinois Compiled Statutes.**

ARTICLE III - FIREMEN'S PENSION BOARD

4-3-1 **DEFINITION OF "FIREMAN" AND "FIREMEN"**. The words "fireman" and "firemen", as used in this Chapter shall include all paid firemen employed by the City at the time this Code becomes effective and who have contributed, under the provisions of this Chapter and the law of this State, to the Firemen's Pension Fund, but no person hereafter appointed to the Fire Department or reappointed in the Fire Department shall be considered a fireman within the provisions of this Chapter, unless at the time of his first appointment he was between the ages of **twenty-one (21) and thirty-five (35) years** and unless within **three (3) months** after receiving his first permanent appointment and, if reappointed unless within **three (3) months** after his reappointment, he shall make written application to the Board of Trustees of the Firemen's Pension Fund to come under the Provisions of this Chapter and shall be found, upon a medical examination of a duly licensed physician selected by the Board of Trustees of the Firemen's Pension Fund, to be then physically and mentally fit to perform the duties of a fireman.

4-3-2 **COMPOSITION OF FIREMEN'S PENSION FUND; TAX.** There shall be set apart the following moneys to constitute the Firemen's Pension Fund:

(A) **Five percent (5%)** per month, which shall be paid or deducted from the salary of each active member of the Fire Department.

(B) All rewards in moneys, fees, gifts and emoluments that may be paid or given on account of extraordinary services of the Fire Department, or any member thereof, except when allowed to be retained by competitive awards.

(C) There shall be levied an annual tax upon all the taxable property within the City at the rate on the dollar of all such taxable property, which will produce an amount which, when added to the deductions from the salaries or wages of the firemen and receipts available from all other sources as hereinabove referred to, will equal a sufficient sum to meet the annual requirements of the pension fund under **Illinois Compiled Statutes**. Such tax shall be levied and collected in like manner with general taxes of the City and shall be in addition to all other taxes now or hereafter authorized to be levied upon all property within the City and shall be in addition to the amount authorized to be levied for general purposes as provided by **Illinois Compiled Statutes**. Such tax when collected shall be paid to the Firemen's Pension Fund as part thereof.

4-3-3 **BOARD OF TRUSTEES; FIREMEN'S PENSION FUND.** A Board of Trustees for this Fund shall be appointed provided by Statute.

4-3-4 **RIGHTS, POWERS, ETC., OF BOARD OF TRUSTEES UNDER STATE LAW.** In the administration of the Firemen's Pension Fund, the Board of Trustees of the Firemen's Pension Fund shall have the rights, powers and duties and shall be subject to all the provisions as set forth in the **Illinois Compiled Statutes**.

4-3-5 **ANNUAL REPORT OF BOARD OF TRUSTEES.** The Board of Trustees of the Firemen's Pension Fund shall, annually, prior to the meeting of the City Council held for the purpose of levying taxes for the year, certify to the City Council the following report:

(A) The assets in the custody of the Board of Trustees at such time.

(B) The estimated receipts during the next succeeding year, from **May 1st to April 30th**, from the deductions from salaries or wages of firemen as provided in this Chapter and from all other sources.

- (C) The estimated amount required during such period for:
- (1) Paying all pensions and other obligations provided for in accordance with the provisions of **Illinois Compiled Statutes**.
 - (2) Establishing and maintaining the reserve fund provided for in **Illinois Compiled Statutes**.

4-3-6 **DUTIES OF TREASURER OF BOARD OF TRUSTEES.** The Treasurer of the Board of Trustees of the Firemen's Pension Fund shall be the custodian of the pension fund and shall secure and safely keep the same, subject to the control and direction of the Board of Trustees and shall keep his books and accounts concerning the fund in such manner as may be prescribed by the Board of Trustees. Such books and accounts shall be subject to the inspection of the Board of Trustees, or any member thereof.

4-3-7 **BOND OF TREASURER OF BOARD OF TRUSTEES.** The Treasurer of the Board of Trustees of the Firemen's Pension Fund shall, within **ten (10) days** after his election or appointment, execute a bond to the City, with good and sufficient securities and in such penal sums as the Board of Trustees may direct, to be approved by the Board of Trustees, conditioned for the faithful performance of the duties of his office and that he will safely keep and well and truly account for all moneys and property which may have come into his hands as Treasurer of the Firemen's Pension Fund. Such bond shall be filed in the office of the City Clerk. In case of a breach of such bond or of the conditions thereof, suit may be brought on the same in the name of the City for the use of the Board of Trustees of the Firemen's Pension Fund or of any person injured by such breach.

(40 ILCS 5/4-101 et seq.)

ARTICLE IV – BOARD OF FIRE AND POLICE COMMISSIONERS

4-4-1 CREATION. There is hereby created a Board of Fire and Police Commissioners in and for the City of Herrin, Williamson County, Illinois, in accordance with **65 ILCS 5/10-2.1-1 et seq.** The Board of Fire and Police Commissioners shall consist of **three (3) members** who shall be appointed by the Mayor with the approval and consent of a majority of the City Council. The term of office shall be **three (3) years** and members shall serve until their respective successors have been appointed and qualified. No appointment shall be made by any Mayor within **thirty (30) days** of the expiration of his term of office.

In accordance with **65 ILCS 5/10-2.1-2**, within **thirty (30) days** after the adoption of this Article, the Mayor shall appoint the first members of the Board of Fire and Police Commissioners. The initial term of one of the members shall be until the end of the current municipal year. One member shall be appointed until the end of the next ensuing municipal year. A third member shall be appointed to serve until the end of the second next ensuing municipal year.

4-4-2 QUALIFICATION – REMOVAL. The members of the Board of Fire and Police Commissioners shall be officers of the City and shall file an oath and fidelity bond in the amount of **Five Thousand Dollars (\$5,000.00)**.

No person holding an office under a municipality shall be a member of the Board of Fire and Police Commissioners. The acceptance of the office as a member of the Board of Fire and Police Commissioners shall be treated as a resignation of the person's office as a member of the Board or Secretary thereof.

No person shall be appointed a member of the Board who has been convicted of a felony under the laws of the State of Illinois or the comparable laws of any other state or the United States.

No person shall be appointed a member of the Board who is related, either by blood or marriage up to the degree of the first cousin, to any elected official of the City.

No more than **two (2) persons** shall belong to the same political party existing in the City at the time of such appointment as defined by Section 10-2 of the Election Code [10 ILCS 5/10-2]. If only one political party exists in the City at the time of such appointments, then state or national party affiliations shall be considered in making such appointments. Party affiliation shall be determined by affidavit of the person appointed a member of the Board.

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 or their own defense, before a regular meeting of the City Council. A majority vote of the members of the City Council shall be required to remove any such member from office.

4-4-3 DEFINITIONS.

Board: The Board of Fire and Police Commissioners of the City.

Firefighter: Any person holding a position in the Herrin Fire Department, except as hereinbelow modified.

Officer: Any sworn officer holding a position in the Herrin Police Department, except as hereinbelow modified.

4-4-4 AUTHORITY OF BOARD.

(A) The Board of Fire and Police Commissioners shall have the duty and authority to compile the register of eligible resulting from the examination process for original appointment in the classified service of the Fire and Police Departments; the promotional eligibility register for promotional

appointments; and shall serve as the body to hear appeals from any suspension, demotion or termination which may be imposed by the Mayor against any Police Officer or Firefighter, and to hear appeals as a result of complaints brought against a member of the Police or Fire Departments by a member of the public. The Board shall have no authority to discipline or discharge Police Officers or Firefighters.

(B) The Board of Fire and Police Commissioners is created pursuant to **65 ILCS 5/10-2/1**.

4-4-5 MEETINGS.

(A) **Notice.** Notice of regular or special meetings shall be posted in accordance with the Open Meetings Act and open to the public. During any regular or special meeting, a closed session may be held upon a proper motion made by a member of the Board. Closed sessions may be limited to Board members and such invited person as the Board may deem necessary.

(B) **Quorum. Two (2) members** of the Board shall constitute a quorum for the conduct of all business.

(C) **Chairperson.** The Board shall elect a chairperson at the April meeting to serve during the fiscal year. The chairperson shall serve for **one (1) year** or until a successor is duly elected and qualified. The Board may designate **one (1) member** to serve as vice chairperson.

4-4-6 GOVERNING RULES.

(A) **Formulate and Distribute.** The Board shall formulate rules to carry out the purposes of these provisions. All rules and revisions thereto shall be made available for distribution not more than **ten (10) days** from the date of adoption.

(B) **Substance and Application.** The governing rules shall apply only to the examination process for certification to the eligibility list and promotional register, to the appeal process which may be filed by an officer or firefighter as a result of suspension, demotion or termination imposed by the Mayor and to the appeal process arising out of complaints brought against a member of the Police or Fire Department by a member of the public.

(C) **Limitation of Rules.** No governing rule of the Board shall apply to the operation of the Police or Fire Departments or the conduct of its members.

(D) **Examination Process.** The Board of Fire and Police Commissioners shall have the authority to promulgate rules governing the examination process for original appointment and promotion in the classified service of the fire and police departments.

4-4-7 ANNUAL REPORT. The Board shall provide to the Mayor an annual report of its activities and of the rules in force the practical effect thereof.

4-4-8 SECRETARY. The Assistant Clerk shall serve as Secretary for the Board and shall keep the minutes of the Board's proceedings, shall be the custodian of all records pertaining to the business of the Board, and shall keep a record of all examinations held.

4-4-9 FACILITIES AND FUNDS. The City shall allow reasonable use of public buildings for meetings and for the holding examinations and shall provide adequate funds in the annual appropriation for the operation of the Board.

4-4-10 ATTORNEY FOR THE BOARD. The City Attorney shall represent the Board and handle all matters before the Board upon behalf of the City. In the event that the City Attorney shall represent the Board, the City may employ an attorney of its choosing to serve as prosecutor before the Board.

4-4-11 APPLICATION PROCESS.

(A) **Application Cards.** Application cards for positions in the Police or Fire Department shall be available in the City Clerk's office. Completed cards shall be kept on file pending publication of the test date. Upon publication of the test date, the Clerk shall notify, by mail, those persons who have completed an application card that an application form will be available in the Clerk's office during regular business hours.

(B) **Time Qualification; Pre-Employment Agreement.** Applications for positions in the Police or Fire Departments shall consist of a completed application form, provided by the City. Applications shall be submitted to the City Clerk's office by the deadline determined by the Board with respect to each examination. Such dates shall be included in publication of the examination notice. In addition, each person submitting an application shall submit a signed pre-employment agreement on the form provided by the City Clerk.

(C) **Informational Booklet.** Upon submission of a completed application form and the signed pre-employment agreement, each applicant to the police or fire department.

4-4-12 APPOINTMENTS.

(A) The Board, upon compilation of an eligibility list for original appointment to either the Fire Department or Police Department, shall deliver to the Mayor an alphabetical list of names of all qualified and eligible persons for the positions. The Mayor, with the approval of the City Council, shall make all original appointments to the Fire and Police Commissioners from the list of eligible candidates. Any certificate of appointment issued shall be signed by the Mayor.

(B) **Appointments Discretionary.** The Board, upon certifying that applicants under this Article have satisfied all requirements imposed by the Board, shall deliver to the Mayor an alphabetical list of names of all qualified and eligible persons for reappointment to the Police Department or Fire Department. The Mayor, with the approval of the City Council, may, at his discretion, make appointments to the Police Department or Fire Department from the respective lists of eligible candidates for reappointment. The Mayor shall sign any reappointment.

4-4-13 PROMOTIONAL APPOINTMENT.

(A) The Board, upon completion of an eligibility register for promotional appointments to either the Fire Department or Police Department, shall deliver to the Mayor an alphabetical list of the names of all qualified and eligible people for said positions. The Mayor, with the approval of the City Council, shall make all promotional appointments to the Fire and Police Departments from the list of eligible candidates. Any certificates of appointment issued to any officer or member of the Fire or Police Department shall be signed by the Mayor.

(B) If a candidate does not wish to be certified as one of the eligible candidates for promotion, then his name will be dropped from the eligibility list or if the certified letter is returned from the post office as undeliverable, then the Board of Fire and Police Commissioners will remove the name of the uninterested or unavailable candidate from the eligibility list.

4-4-14 REVIEW OF DISCIPLINARY ACTION.

(A) **Appeals Board.** The Board has no authority in disciplinary matters involving Police Officers and Firefighters other than to serve as an appeal board from any disciplinary action taken by the Mayor.

(B) **Criteria for Appeal.** Any Police Officer or Firefighter, who has been suspended, demoted or terminated by action of the Mayor, may appeal that action to the Board.

(C) **Decision.** The Board is hereby granted the authority to affirm, modify, or reverse the Mayor's decision. The Mayor may appeal any decision of the Board to reverse his decision to the circuit court pursuant to the administrative review act.

(D) **Time Limited Suspension.** Nothing in this Section shall be construed to prevent the Mayor from suspending, with or without pay, and Police Officer or Firefighter for a period of

not more than **thirty (30) days**. Any Police Officer or Firefighter so suspended may appeal for review to the Mayor within **twenty-four (24) hours** of the notice of the suspension, and upon appeal, the Mayor may conduct a hearing. The decision of the Mayor shall be appealable to the Board. The burden to show that the suspension is erroneous is upon the individual bringing the appeal.

4-4-15 **APPLICATION OF ARTICLE.** The provisions of this Article pertaining to disciplinary action shall apply only to full-time Firefighters and full-time Police Officers of a regularly constituted Fire or Police Department, who hold the rank of Patrol Officer or Firefighter, and not to any other personnel of the City or the Police Chief or Fire Chief.

(65 ILCS 5/10-2.1-1)

(Ord. No. 9-69; 05-12-69 in part)

ARTICLE V - FOREIGN FIRE INSURANCE BOARD

4-5-1 **BOARD ESTABLISHED.** There is hereby established a Foreign Fire Insurance Board in the Herrin Fire Department pursuant to the provisions of *65 Illinois Compiled Statutes 5/11-10-2*.

4-5-2 **BOARD COMPOSITION.** The Foreign Fire Insurance Board shall consist of **three (3)** officers, namely a president, secretary and treasurer, who shall be members of the Herrin Fire Department, to be elected by the members of the Herrin Fire Department.

4-5-3 **RULES AND REGULATIONS.** The duly elected officers shall make all necessary rules and regulations with respect to the Board and the management of the money appropriated to the Board, not inconsistent with this Article, provided such money is expended for the maintenance, use and benefit of the Herrin Fire Department.

4-5-4 **LIST OF ITEMS.** The officers of the Foreign Fire Insurance Board shall develop and maintain a listing of those items that the Board determines are appropriate expenditures under the provisions of *65 Illinois Compiled Statutes 5/11-10-2*, a copy of such listing to be filed with the City Clerk.

4-5-5 **RECEIPTS PAID TO TREASURER.** All of the money paid to the City Treasurer as provided in Section 5/11-10-1 of the Illinois Municipal Code shall be set apart and shall be appropriated annually by the City Council to the Foreign Fire Insurance Board.

4-5-6 **BOND.** The Treasurer of the Board shall provide a bond, to be approved by the Mayor, conditioned upon the faithful performance by the Treasurer of his duties under this Article and the rules and regulations provided by **Section 4-5-3** hereinabove.

4-5-7 **PAYMENTS BY TREASURER.** The Treasurer of the Board shall receive the appropriated money and shall pay out the money upon the order of the Foreign Fire Insurance Board for the maintenance, use and benefit of the Herrin Fire Department.

4-5-8 **AUDIT.** As part of the City's annual audit, the money received by the Treasurer shall be audited to verify that the purposes for which such money was expended were for the maintenance, use and benefit of the Herrin Fire Department.

(Ord. No. 16-2007; 03-26-07)

[See Chapter 36 Article I]

CHAPTER 6 – BUILDING REGULATIONS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
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CHAPTER 6

BUILDING REGULATIONS

ARTICLE I – BUILDING CODE

6-1-1 BUILDING CODE ADOPTION. “2012 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, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the 2012 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:

- (A) Section 101.1. Insert: City of Herrin.
- (B) Section 1612.3. Insert: City of Herrin and September 1, 2019.
- (C) Section 3412.2. Insert: September 1, 2019.
- (D) Section 406.3.4. Change: Private garages... “Doors shall be self-closing and self-latching in all use groups with the exception of R3.”
- (E) Section 312.1.1. Change by deleting “at any point within 36 inches (914 mm) horizontally to the edge of the open side”.
- (F) Chapter 25 through Chapter 33. Illinois State Plumbing Code 2014 Edition shall take precedence of any conflicting process or requirements.
- (G) The fee schedule shall be established in **Schedule “A”** at the conclusion of this Chapter.

ARTICLE II – 2012 INTERNATIONAL RESIDENTIAL CODE

6-2-1 INTERNATIONAL RESIDENTIAL CODE. “2012 International Building 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, 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 2012 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:

- (A) Insert: “Herrin, Illinois” where wording calls for “Name of Municipality”.
- (B) 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 (11.15m²)
- (C) Section R302.5.1. Opening protection. The requirement for providing self-closing door device on openings between garage and residence shall be deleted.
- (D) Section R313. Automatic Sprinkler Systems shall be deleted in its entirety.
- (E) The fee schedule shall be established in **Schedule “A”** at the conclusion of this Chapter.

ARTICLE III – 2012 INTERNATIONAL FIRE CODE

6-3-1 **INTERNATIONAL FIRE PREVENTION CODE ADOPTION.** “The **2012 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 Districts providing fire protection within the City limits.

ARTICLE IV – INTERNATIONAL ENERGY CONSERVATION CODE 2012

6-4-1 **ENERGY CONSERVATION CODE.** “**International Energy Conservation Code 2012**”, as published by International Code Council Inc. including accumulative supplements thereto as amended from time to time, be and is hereby adopted as the Energy Conservation Code for the City regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to use or maintenance of the building envelope, mechanical lighting and power systems in commercial buildings in the City; and each and all of the regulations, provisions, penalties, conditions and terms of the International Energy Conservation Code, 2006 edition, and accumulative supplements thereto or hereby referred to adopted and made part hereof as if fully set out in this Code with any additions, insertions, deletions and changes thereto described as follows. The following buildings shall be exempt from the Code:

(A) Buildings otherwise exempt from provisions of a locally adopted Building Code and buildings that do not contain a conditioned space.

(B) Buildings that do not use either electricity or fossil fuel for comfort conditioning. For purposes of determining whether this exemption applies a building will be presumed to be heated by electricity even in the absence of equipment used for electric comfort heating, whenever the building is provided with electrical service in excess of 100 amps, unless the Code Enforcement Official determines that this electrical service is necessary for purposes other than providing electric comfort heating.

(C) **Historic Buildings.** This exemption shall apply to those buildings that are listed on the National Register of Historic Places or the Illinois Register of Historic Places and to those buildings that have been designated as historically significant by a local governing body that is authorized to make such designations.

(D) Residential buildings.

(E) Other buildings specified as exempt by the International Energy Conservation Code.

ARTICLE V – 2012 INTERNATIONAL EXISTING BUILDING CODE

6-5-1 **INTERNATIONAL EXISTING BUILDING CODE.** “**2012 International Existing 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 Existing Building Code for the City, for regulating and governing the repair, alteration, change of occupancy, addition and relocation of existing buildings, as herein provided; providing for the issuance of permits and each and all of the regulations, provisions, penalties, conditions and terms of said Existing Building Code and hereby referred to, adopted and made a part hereof as if fully set out in this Code.

ARTICLE VI – 2012 INTERNATIONAL MECHANICAL CODE

6-6-1 **INTERNATIONAL MECHANICAL CODE.** “**2012 International Mechanical Code**”, as published by International Code Council, Inc., be and is hereby adopted as the Mechanical Code for the City, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits, and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code are hereby referred to, adopted and made a part hereof as if fully set out in this Code.

ARTICLE VII – ILLINOIS STATE PLUMBING CODE

6-7-1 **PLUMBING CODE ADOPTION.** “**The Illinois State Plumbing Code, 1988**”, 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**, 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.

ARTICLE VIII – ELECTRICAL CODE

6-8-1 **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**, 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 and paid to the City.

ARTICLE IX – STATE OF ILLINOIS ACCESSIBILITY STANDARDS

6-9-1 **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.

BUILDING REGULATIONS**BUILDING REGULATIONS****SCHEDULE "A"****RESIDENTIAL PERMIT FEE SCHEDULE**

(Effective Date 10/01/19)

Cost Thousand	Fee Amount	Cost Thousand	Fee Amount	Cost Thousand	Fee Amount	Cost Thousand	Fee Amount
Up to 1	\$54	Up to 34	\$415	Up to 94	\$854	Up to 300	\$2,234
Up to 2	86	Up to 35	415	Up to 96	871	Up to 310	2,306
Up to 3	119	Up to 36	428	Up to 98	884	Up to 320	2,362
Up to 4	151	Up to 37	430	Up to 100	899	Up to 330	2,418
Up to 5	184	Up to 38	441	Up to 105	925	Up to 340	2,487
Up to 6	216	Up to 39	443	Up to 110	968	Up to 350	2,548
Up to 7	248	Up to 40	458	Up to 115	996	Up to 360	2,615
Up to 8	281	Up to 42	471	Up to 120	1,039	Up to 370	2,673
Up to 9	311	Up to 44	486	Up to 125	1,065	Up to 380	2,727
Up to 10	315	Up to 46	497	Up to 130	1,111	Up to 390	2,803
Up to 11	315	Up to 48	514	Up to 135	1,139	Up to 400	2,859
Up to 12	315	Up to 50	527	Up to 140	1,180	Up to 420	2,973
Up to 13	315	Up to 52	540	Up to 145	1,210	Up to 440	3,099
Up to 14	315	Up to 54	568	Up to 150	1,251	Up to 460	3,237
Up to 15	315	Up to 56	568	Up to 155	1,281	Up to 480	3,341
Up to 16	318	Up to 58	586	Up to 160	1,307	Up to 500	3,455
Up to 17	328	Up to 60	599	Up to 165	1,353	Up to 520	3,570
Up to 18	328	Up to 62	612	Up to 170	1,396	Up to 540	3,695
Up to 19	341	Up to 64	624	Up to 175	1,424	Up to 560	3,773
Up to 20	341	Up to 66	642	Up to 180	1,452	Up to 580	3,924
Up to 21	341	Up to 68	657	Up to 185	1,480	Up to 600	4,036
Up to 22	341	Up to 70	670	Up to 190	1,519	Up to 620	4,151
Up to 23	341	Up to 72	683	Up to 195	1,551	Up to 640	4,265
Up to 24	357	Up to 74	700	Up to 200	1,580	Up to 660	4,378
Up to 25	357	Up to 76	713	Up to 210	1,651	Up to 680	4,494
Up to 26	374	Up to 78	726	Up to 220	1,722		
Up to 27	374	Up to 80	739	Up to 230	1,789		
Up to 28	382	Up to 82	756	Up to 240	1,850		
Up to 29	382	Up to 84	769	Up to 250	1,921		
Up to 30	382	Up to 86	782	Up to 260	1,977		
Up to 31	400	Up to 88	797	Up to 270	2,046		
Up to 32	400	Up to 90	828	Up to 280	2,107		
Up to 33	400	Up to 92	841	Up to 290	2,176		

BUILDING REGULATIONS**SCHEDULE "B"****COMMERCIAL AND INDUSTRIAL PERMIT FEE SCHEDULE**

(Effective Date 10/01/19)

Cost Thousand	Fee Amount	Cost Thousand	Fee Amount	Cost Thousand	Fee Amount	Cost Thousand	Fee Amount
Up to 1	\$140	Up to 37	\$ 635	Up to 115	\$1,506	Up to 390	\$ 4,284
Up to 2	192	Up to 38	656	Up to 120	1,575	Up to 400	4,373
Up to 3	226	Up to 39	659	Up to 125	1,616	Up to 420	4,548
Up to 4	263	Up to 40	678	Up to 130	1,685	Up to 440	4,745
Up to 5	328	Up to 42	700	Up to 135	1,728	Up to 460	4,922
Up to 6	373	Up to 44	721	Up to 140	1,793	Up to 480	5,116
Up to 7	393	Up to 46	741	Up to 145	1,836	Up to 500	5,291
Up to 8	436	Up to 48	767	Up to 150	1,901	Up to 520	5,466
Up to 9	455	Up to 50	786	Up to 155	1,946	Up to 540	5,665
Up to 10	460	Up to 52	810	Up to 160	1,990	Up to 560	5,838
Up to 11	460	Up to 54	851	Up to 165	2,054	Up to 580	6,015
Up to 12	460	Up to 56	853	Up to 170	2,098	Up to 600	6,186
Up to 13	460	Up to 58	872	Up to 175	2,167	Up to 620	6,363
Up to 14	460	Up to 60	898	Up to 180	2,210	Up to 640	6,540
Up to 15	460	Up to 62	918	Up to 185	2,253	Up to 660	6,713
Up to 16	462	Up to 64	942	Up to 190	2,318	Up to 680	6,888
Up to 17	479	Up to 66	961	Up to 195	2,361	Up to 700	7,065
Up to 18	479	Up to 68	985	Up to 200	2,404	Up to 720	7,238
Up to 19	505	Up to 70	1,006	Up to 210	2,515	Up to 740	7,413
Up to 20	505	Up to 72	1,028	Up to 220	2,623	Up to 760	7,588
Up to 21	505	Up to 74	1,050	Up to 230	2,724	Up to 780	7,763
Up to 22	507	Up to 76	1,071	Up to 240	2,822	Up to 800	7,940
Up to 23	507	Up to 78	1,093	Up to 250	2,930	Up to 820	8,113
Up to 24	525	Up to 80	1,114	Up to 260	3,016	Up to 840	8,265
Up to 25	525	Up to 82	1,138	Up to 270	3,128	Up to 860	8,440
Up to 26	548	Up to 84	1,160	Up to 280	3,128	Up to 880	8,615
Up to 27	548	Up to 86	1,179	Up to 290	3,325	Up to 900	8,790
Up to 28	568	Up to 88	1,203	Up to 300	3,409	Up to 920	8,943
Up to 29	568	Up to 90	1,246	Up to 310	3,450	Up to 940	9,118
Up to 30	568	Up to 92	1,268	Up to 320	3,610	Up to 960	9,291
Up to 31	589	Up to 94	1,292	Up to 330	3,692	Up to 980	9,447
Up to 32	589	Up to 96	1,311	Up to 340	3,803		
Up to 33	589	Up to 98	1,335	Up to 350	3,891		
Up to 34	611	Up to 100	1,354	Up to 360	3,999		
Up to 35	611	Up to 105	1,400	Up to 370	4,090		
Up to 36	633	Up to 110	1,465	Up to 380	4,174		

BUILDING REGULATIONS**SCHEDULE "B"
(CONTINUED)****COMMERCIAL AND INDUSTRIAL PERMIT FEE SCHEDULE**

(Effective Date 10/01/19)

Cost Millions	Fee Amount	Cost Millions	Fee Amount	Cost Millions	Fee Amount	Cost Millions	Fee Amount
Up to 1.1	\$10,453	Up to 5.4	\$11,437	Up to 16.5	\$12,512	Up to 34.5	\$13,689
Up to 1.2	10,479	Up to 5.6	11,465	Up to 17.0	12,543	Up to 40.0	14,031
Up to 1.3	10,506	Up to 5.8	11,494	Up to 17.5	12,575	Up to 40.5	14,382
Up to 1.4	10,532	Up to 6.0	11,523	Up to 18.0	12,606	Up to 41.0	14,742
Up to 1.5	10,558	Up to 6.2	11,551	Up to 18.5	12,638	Up to 41.5	15,110
Up to 1.6	10,585	Up to 6.4	11,580	Up to 19.0	12,669	Up to 42.0	15,488
Up to 1.7	10,611	Up to 6.6	11,609	Up to 19.5	12,701	Up to 42.5	15,875
Up to 1.8	10,638	Up to 6.8	11,638	Up to 20.0	12,733	Up to 43.0	16,272
Up to 1.9	10,664	Up to 7.0	11,667	Up to 20.5	12,765	Up to 43.5	16,679
Up to 2.0	10,691	Up to 7.2	11,696	Up to 21.0	12,797	Up to 44.0	17,096
Up to 2.1	10,718	Up to 7.4	11,726	Up to 21.5	12,829	Up to 44.5	17,523
Up to 2.2	10,744	Up to 7.6	11,755	Up to 22.0	12,861	Up to 45.0	17,961
Up to 2.3	10,771	Up to 7.8	11,784	Up to 22.5	12,893	Up to 45.5	18,410
Up to 2.4	10,798	Up to 8.0	11,814	Up to 23.0	12,925	Up to 46.0	18,871
Up to 2.5	10,825	Up to 8.2	11,843	Up to 23.5	12,957	Up to 46.5	19,342
Up to 2.6	10,852	Up to 8.4	11,873	Up to 24.0	12,990	Up to 47.0	19,826
Up to 2.7	10,879	Up to 8.6	11,903	Up to 24.5	13,022	Up to 47.5	20,322
Up to 2.8	10,907	Up to 8.8	11,932	Up to 25.0	13,055	Up to 48.0	20,830
Up to 2.9	10,934	Up to 9.0	11,962	Up to 25.5	13,087	Up to 48.5	21,351
Up to 3.0	10,961	Up to 9.2	11,992	Up to 26.0	13,120	Up to 49.0	21,884
Up to 3.1	10,989	Up to 9.4	12,022	Up to 26.5	13,153	Up to 49.5	22,431
Up to 3.2	11,016	Up to 9.6	12,052	Up to 27.0	13,186	Up to 50.0	22,992
Up to 3.3	11,044	Up to 9.8	12,082	Up to 27.5	13,219		
Up to 3.4	11,071	Up to 10.0	12,113	Up to 28.0	13,252		
Up to 3.5	11,099	Up to 10.5	12,143	Up to 28.5	13,285		
Up to 3.6	11,127	Up to 11.0	12,173	Up to 29.0	13,318		
Up to 3.7	11,155	Up to 11.5	12,204	Up to 29.5	13,351		
Up to 3.8	11,182	Up to 12.0	12,234	Up to 30.0	13,385		
Up to 3.9	11,210	Up to 12.5	12,265	Up to 30.5	13,418		
Up to 4.0	11,238	Up to 13.0	12,295	Up to 31.0	13,452		
Up to 4.2	11,266	Up to 13.5	12,326	Up to 31.5	13,485		
Up to 4.4	11,295	Up to 14.0	12,357	Up to 32.0	13,519		
Up to 4.6	11,323	Up to 14.5	12,388	Up to 32.5	13,553		
Up to 4.8	11,351	Up to 15.0	12,419	Up to 33.0	13,587		
Up to 5.0	11,380	Up to 15.5	12,450	Up to 33.5	13,621		
Up to 5.2	11,408	Up to 16.0	12,481	Up to 34.0	13,655		

CHAPTER 7 - BUSINESS CODE

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CHAPTER 7

BUSINESS CODE

ARTICLE I – ADMINISTRATION

DIVISION I – LICENSING AND REGULATIONS

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;
 - (4) Zoning district;
 - (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. **(See Appendix "A" for a list.)**

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. **(See Appendix "A")**

7-1-6 TERMINATION OF LICENSES. All annual licenses shall be operative and the license year for this Municipality shall commence on **May 1st of each year** and shall terminate on **April 30th** 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.

Furthermore, the pickup and removal of trash or garbage by any person using dumpster trucks or other motor vehicles or other mechanical means between **8:00 P.M. CST** and **6:00 A.M. CST** is found and declared to be a nuisance hereunder and is punishable as provided in **Section 1-1-20** of this Code. **(Ord. No. 4-81; 03-08-81)**

[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.

7-1-10.3 REFUSE DISPOSAL.

(A) **Refuse Containers.** The standard refuse container required by this Code shall be a receptacle of not less than **twenty (20)**, nor more than **thirty-two (32) gallons capacity**, constructed of impervious material and sturdy construction with a tight-fitting cover, and equipped with handles properly placed to facilitate handling.

(B) **Duty-to Provide Refuse Containers.** The occupant of every building, structure or premises used or maintained in connection with any business or occupation shall provide and maintain in good condition and repair a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections.

All refuse which is placed for collection service outside any building or structure must be kept in standard refuse containers.

(C) **Refuse Removal.** It shall be the duty of the occupant of every building, structure or premises used or maintained in connection with any business or occupation to cause to be removed, at his own cost and expense, at least once each week, all refuse produced therein.

(D) **Removal of Restaurant Garbage.** Every person owning or controlling any hotel, restaurant, cafe, or retail food establishment where more than **thirty-two (32) gallons** of refuse, is normally produced weekly shall cause all garbage to be placed in sanitary refuse containers and shall cause all substances deposited in such containers to be removed daily from his premises and to be disposed of at his own expense.

7-1-11 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.

7-1-12 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.

7-1-13 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 between the hours of **8:00 A.M. and 6:00 P.M. from October 1st of each year until June 1st of the succeeding year [Sundays and legal holidays excepted]**.

7-1-14 INSPECTION. The Mayor, the Chief of Police or the Code Enforcement Officer 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.

7-1-15 ADMISSION OF INSPECTORS.
(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.

7-1-16 - 7-1-17 RESERVED.

DIVISION II – SUSPENSION, REVOCATION OF LICENSE OR PERMIT

7-1-18 **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**.

7-1-19 **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.

7-1-20 **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 7-1-21** and **7-1-22** 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 7-1-15**.

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.

7-1-21 **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.

7-1-22 **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.

7-1-23 **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 7-1-20** 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 7-1-18 et seq.** hereof. The decision of the City Council on such appeal shall be final.

7-1-24 **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.

7-1-25 **BUSINESS VEHICLE STICKER.** Whenever the number of vehicles used is the basis in whole or in part for a license fee, the Clerk shall furnish the licensee with a tag or sticker for each vehicle covered by the license and such tag or sticker shall be posted or affixed in a conspicuous place on each business vehicle.

**ARTICLE II – TRANSIENT MERCHANTS, ITINERANT VENDORS AND
COMMERCIAL SOLICITORS**

7-2-1 **DEFINITIONS.** For purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **Charitable** means and includes the words patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal.

(B) **Commercial Soliciting** means and includes any one or more of the following activities, not performed for charitable purposes, by a person on the streets, highways, sidewalks and at residences and businesses, without invitation, within the City.

(1) The sale of, offer or attempt to sell, or seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, consulting service or services of any kind, character or description, for any consideration whatever.

(2) The sale of, or offer or attempt to sell, or seeking to obtain subscriptions for books, magazines, periodicals, newspapers, or any type of publication.

(C) **Contribution** means and includes the words alms, food, clothing, money, subscription, property or donations under the guise of a loan of money or property.

(D) **Person** means any individual, corporation, partnership, trust, firm, association or other entity.

(E) **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. This definition 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 telecommunications.

(F) **Residence** means and includes every separate living unit occupied for residential purposes by **one (1)** or more persons, contained within any type of building or structure.

(G) **Solicitation** shall be deemed completed when made, whether or not the person making the same receives any contribution or makes any sale referred to in this Section.

(H) **Transient Merchant** means any person who is engaged temporarily in the retail of goods, wares of merchandise in this City and who, for the purpose of conducting such business, occupies any building, room, vehicle, structure of any kind, or vacant lot.

7-2-2 **LICENSE REQUIRED.** It is unlawful for any persons, whether as principal or agent, to conduct business as a transient merchant or itinerant vendor or commercial solicitor in this City with 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 **seven (7) business days** in advance of the proposed activity.

7-2-3 **CONTENTS OF APPLICATION.** The applicant shall complete a license application which shall include the following:

(A) The name, address, telephone number and driver's license number of the individual applying for the license.

(B) The address of the principal place of business, which must include a street address of the applicant and the telephone number.

(C) If the applicant is employed by another person or entity, the name of the employer, the address and telephone number of the employer, and if the applicant is a corporation, the street address, telephone number and driver's license number of each corporate officer, including the name of the registered agent.

- (D) The location at which the applicant intends to sell his goods, wares or merchandise and the dates such sales will occur.
- (E) The nature of the business to be conducted.
- (F) A copy of the applicant's certificate of registration under the Retailers' Occupation Tax Act.
- (G) The type of goods, wares or merchandise to be sold or offered for sale.
- (H) A complete inventory of the goods the applicant shall offer for sale.
- (I) A list of all licenses to conduct business as a transient merchant, itinerant vendor, or commercial solicitor obtained by the applicant in this State within the next **twelve (12) months** preceding the application.
- (J) Whether the applicant has been convicted of a criminal offense or ordinance violation in any jurisdiction, (other than traffic or parking offenses).
- (K) The names and addresses of any individuals or business enterprises expected participate in the business. Any new individuals or businesses added after submission of the application shall be submitted to the City Clerk within **twenty-four (24) hours**.
- (L) If a vehicle is used, a description of the vehicle(s), together with the license number.
- (M) The state and federal tax identification numbers of the applicant and any individuals or business enterprises expected to participate in the business.
- (N) If a license is required by the Williamson County Health Department for the sale of food, a copy of the license shall be required.

7-2-4 LICENSE FEE. Each applicant shall pay to the City Clerk an annual license fee of **Two Hundred Forty Dollars (\$240.00)** for the term **May 1** through **April 30** of each year. If an annual fee is paid after **May 1**, the fee shall be prorated on a monthly basis for the remainder of the license year. All fees shall be paid at the time the application is submitted and shall be nonrefundable.

Permits may be granted for a minimum of **three (3) days** at a cost of **Twenty-Five Dollars (\$25.00)** for each individual commercial solicitor, transient merchant or itinerant vendor. Additional days are **Five Dollars (\$5.00)** per day for each individual. Permits may be granted for a **thirty (30) day** period at a cost of **Thirty-Five Dollars (\$35.00)**.

7-2-5 DENIAL OF LICENSE. An application for permit may be denied if any of the following factors are present:

- (A) Any statement in the application determined 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, or any other state, or of the United States.
 - (C) The applicant or employer has had a previously issued license under this or a similar article revoked by the City, or any other municipality, within **five (5) years** of the date of the application.
 - (D) The applicant or employer has been convicted of violating any provisions of this Article within **five (5) years** of the date of application.
 - (E) The applicant has an outstanding debt with the City.
- The City Clerk shall deny the license application and shall provide written notification of such denial to the applicant.

7-2-6 REVOCATION OF LICENSE.

- (A) A license issued pursuant to this Article shall be revoked by the City if the holder of the license:
 - (1) Has violated any of the provisions of this Article, the laws of the State, or the ordinances of the City while engaged in the business of commercial solicitation, a transient merchant, or an 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 the United States.
- (3) Has provided false or misleading information or withheld relevant information on any application for 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, itinerant vendor or commercial solicitor in such a manner to constitute a breach of the peace or as to constitute a menace to the health, safety or general welfare of the public, or in violation of any provision of this Article.

(B) Immediately upon such revocation, written notice shall be given by the City to the license holder, in person, or by first class mail addressed to the applicant's address as set forth in the license application. Such notice shall state the action taken and the basis for the action. The license shall terminate upon the date of mailing of such notice, or upon personal delivery.

7-2-7 STANDARDS FOR LICENSE ISSUANCE.

(A) Within **two (2) business days** of receipt of a completed license application, the City Clerk shall refer the application to the Chief of Police 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 City.

(B) Applicants shall cooperate with such investigation and furnish such additional information as may reasonably necessary in furtherance of the investigation.

7-2-8 ISSUANCE OF LICENSE. Upon receipt of the results of the investigation provided by the Chief of Police, the City Clerk shall issue the license within **five (5) business days**, unless the applicant is determined ineligible to hold a license in accord with the provisions of **Section 7-2-5** hereinabove.

7-2-9 LICENSE TO BE CARRIED. Every commercial solicitor, transient merchant and itinerant vendor shall carry the license issued under this Article on his person at all times while conducting business within the corporate limits of the City. It shall also be the duty of each commercial solicitor, transient merchant and itinerant vendor to exhibit such license and allow the information contained thereon to be documented when requested to do so by any law enforcement officer or any citizen of the City.

7-2-10 FAILURE TO OBTAIN A LICENSE.

(A) If any person makes retail sales as a commercial solicitor, transient merchant, or itinerant vendor without having obtained a license pursuant to this Article, the City may order the cessation of business until a license has been obtained. Continued sales without the required license may result in the confiscation of personal property to be sold until the license is obtained.

(B) It shall be prima facie evidence that a person is a transient merchant or itinerant vendor if the person does not transact business from a building or does not own or lease for a term of **six (6) months** the property from which the business is being conducted.

7-2-11 EXEMPTIONS FROM LICENSE REQUIREMENTS.

(A) Youth Organizations, such as the Girl Scouts, Boy Scouts, and other youth organizations which are sponsored by elementary and secondary schools and who sell merchandise on behalf of such organizations.

(B) **Nonprofit Organizations.** 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 in the State of Illinois.

(C) Garage and yard sales are exempted from the requirements of this Article.

(D) Political solicitation on behalf of a candidate for public office or on behalf of a political party.

(E) Any person delivering newspapers to regular customers on established routes.

(F) Persons selling vegetables, fruit or other perishable farm products which were grown by him at an established farmer's market.

(G) Special events held in the City such as Cruise Night and Herrinfesta Italiano.

7-2-12 PROHIBITED PRACTICES.

(A) It shall be unlawful and shall constitute a violation of this Article for any person to ring the doorbell or knock upon any door, or create any sound in any other manner designed to attract the attention of the occupant of the residence for the purpose of securing an audience with the occupant and engage in commercial, religious or charitable solicitation at any time on Sunday or on a state or national holiday, or before the hour of **10:00 A.M.** or after the hour of **8:00 P.M.**

(B) A solicitor shall not sell or barter any goods, services, merchandise or wares other than those specified in the solicitor's permit.

(C) 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.

(D) No person shall stand in or on a public street for the purpose of soliciting contributions from the occupant of a motor vehicle, with the exception of Veteran or fraternal organizations and school organizations.

(E) 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.

(F) No Vendor shall sell their products on the following streets:

- (1) N. 5th St. from E. Herrin St. to E. Bond St.
- (2) N. 7th St. from E. Herrin St. to E. Carroll St.
- (3) E. Benson St. from N. 7th St. to N. 8th St.
- (4) E. Bond St. from N. 7th St. to N. 8th St.
- (5) E. Bryan St. from N. 7th St. to N. 8th St.
- (6) E. Carroll St. from N. 4th St. to N. 7th St.
- (7) E. Herrin St. from N. 5th St. to N. 7th St.

(Ord. No. 13-2021; 06-28-21)

7-2-13 POSTED PREMISES.

(A) No person shall solicit on any premises if the premises are posted against solicitation by means of a notice prominently displayed, on which is printed "No Solicitors", or words of similar meaning.

(B) A premise shall be presumed to prohibit soliciting if there is exhibited on or near the main entrance a sign of at least **three inches by four inches (3" x 4")** in size which bears the above legend.

(C) It shall be the duty of each solicitor to inspect the premises for the notice provided hereinabove. If the notice is posted, the solicitor shall immediately depart. Any solicitor who has gained entrance to any residence shall immediately and peaceably depart from the premises when requested to do so by the occupant.

7-2-14 SOLICITATIONS ON PUBLIC HIGHWAYS. Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

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

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

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

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

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

(F) Solicit only during daylight hours.

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

**(626 ILCS 5/11-1006 and 65 ILCS 5/11-42-5)
(Ord. No. 26-2002; 07-22-02)**

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 Municipal 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 date of application 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 go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in peddling as herein defined, prior to **nine o'clock (9:00) A.M.** or after **five o'clock (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.** Any licensed peddler or hawker who 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 who shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license shall be fined, upon conviction, as provided in **Section 1-1-20** in this Code.

7-3-7 **PRODUCTS EXCLUDED.** The provisions of this Article shall not apply to the sale or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs, and other farm and garden products, so far as the sale of the commodities named herein is now authorized by law.

7-3-8 **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 (2) inches by two (2) inches**, showing the head and shoulders of the applicant, or its agents, and employees, in a clear and distinguishing manner.

7-3-9 **UNWANTED PEDDLING.** Nothing contained in this Article, 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.

7-3-10 **LICENSE FEE.** Each applicant shall pay to the City Clerk an annual license fee of **Two Hundred Forty Dollars (\$240.00)** for the term **May 1** through **April 30** of each year. If an annual fee is paid after **May 1**, the fee shall be prorated on a monthly basis for the remainder of the license year. All fees shall be paid at the time the application is submitted and shall be nonrefundable.

Permits may be granted for a minimum of **three (3) days** at a cost of **Twenty-Five Dollars (\$25.00)** for each individual commercial solicitor, transient merchant or itinerant vendor. Additional days are **Five Dollars (\$5.00)** per day for each individual. Permits may be granted for a **thirty (30) day** period at a cost of **Thirty-Five Dollars (\$35.00)**.

7-3-11 **DENIAL OF LICENSE.** An application for permit may be denied if any of the following factors are present:

- (A) Any statement in the application determined 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, or any other state, or of the United States.
- (C) The applicant or employer has had a previously issued license under this or a similar article revoked by the City, or any other municipality, within **five (5) years** of the date of the application.
- (D) The applicant or employer has been convicted of violating any provisions of this Article within **five (5) years** of the date of application.
- (E) The applicant has an outstanding debt with the City.

The City Clerk shall deny the license application and shall provide written notification of such denial to the applicant.

7-3-12 **REVOCAION OF LICENSE.**

(A) A license issued pursuant to this Article shall be revoked by the City if the holder of the license:

- (1) Has violated any of the provisions of this Article, the laws of the State, or the ordinances of the City while engaged in the business of commercial solicitation, a transient merchant, or an 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 the United States.

- (3) Has provided false or misleading information or withheld relevant information on any application for 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, itinerant vendor or commercial solicitor in such a manner to constitute a breach of the peace or as to constitute a menace to the health, safety or general welfare of the public, or in violation of any provision of this Article.

(B) Immediately upon such revocation, written notice shall be given by the City to the license holder, in person, or by first class mail addressed to the applicant's address as set forth in the license application. Such notice shall state the action taken and the basis for the action. The license shall terminate upon the date of mailing of such notice, or upon personal delivery.

7-3-13 **BY REFERENCE.** The provisions of **Sections 7-2-7** through **7-2-11** are included by reference as they may apply to peddlers.

(65 ILCS 5/11-42-5)

ARTICLE IV - JUNK DEALERS

7-4-1 JUNK YARDS. The term "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.

The term "**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".

The term "**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.

7-4-2 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 **Section 7-4-2(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.

7-4-3 LICENSE REQUIRED. It shall be unlawful for any person, firm, partnership, or corporation 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.

7-4-4 APPLICATION. Before any license under the provisions of this Section is issued, any person, firm, partnership or corporation desiring to operate a junk yard in this City shall first make a verified application in writing to the Municipal 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.

7-4-5 **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 (1)** of the minimum physical requirements for a junk yard as specified in **Section 7-4-2** hereof.

7-4-6 **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. **(65 ILCS 5/11-42-3)**

7-4-7 **LICENSE FEE.** The annual license fee for each junk yard shall be **One Hundred Dollars (\$100.00)**, payable in advance with the filing of the application for license, and shall not be subject to prorata 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 **One Hundred Dollars (\$100.00)** for each junk dealer. The fee is payable as provided in **Sections 7-1-5** and **7-1-6**.

7-4-8 **MINORS.** No licensee hereunder shall purchase or receive any article whatsoever from any minor, without the written consent of their parents or guardians.

ARTICLE V - COIN-OPERATED MACHINES

7-5-1 **DEFINITIONS.** Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

"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.

"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.

"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.

7-5-2 **LICENSE REQUIRED.** No person, firm or corporation shall engage in the business of an operator of coin-operated amusement devices within the corporate limits of this Municipality without having first obtained the proper license therefor.

7-5-3 **APPLICATION.** The application for such license shall contain the following information:

- (A) Name and address of the applicant, age, date, and place of birth.
- (B) All prior convictions of felonies of the applicant, if any.
- (C) Address and name of business where the machine or device will be displayed and operated and the nature of the business conducted at the address and under said name.
- (D) The name and address of the owner of the machine and if said machine is serviced and supplied by any person, firm, corporation or association other than the applicant, or the owner of the machine, the name and address of such person, firm, corporation or association shall be set out in the application.

No license shall be issued to any applicant unless he shall be over **eighteen (18) years** of age and a citizen of the United States.

- (E) The name, description, State of Illinois license tag number, and serial number of each coin-operated device proposed to be licensed. **(Ord. No. 4-2001; 02-12-01)**

7-5-4 **INSPECTION.** Application for license shall be made out in duplicate, **one (1) copy** being retained by the City Clerk and the other copy being referred to the Chief of Police of the City.

- (A) The Chief of Police shall investigate the location wherein it is proposed to operate such machine and ascertain if the applicant is a person of good moral character.
- (B) If the Chief of Police determines that the applicant is not of good moral character, he shall report such findings to the City Council.

7-5-5 **LICENSE APPROVAL.** No license shall be issued until the application therefore has been approved by the City Council.

- 7-5-6** **PROHIBITED LICENSEES.** No license under this section shall be issued to:
- (A) Any person who is not of good character and reputation in the community.
 - (B) 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.
 - (C) Any person whose license issued under this Article has been revoked for cause.
 - (D) Any partnership, unless all of the members of the partnership are qualified to obtain such license.
 - (E) 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.
 - (F) 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.
 - (G) 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.

7-5-7 **LICENSE FEES.** Every applicant, before being granted a license shall pay an annual license fee of **Fifty Dollars (\$50.00)** per machine.
The license fee shall be paid annually, in advance, on the **first (1st) day of May** of each year. If additional machines or devices are to be installed or displayed from time to time a license shall be obtained prior to the installation of the machine or device. The license shall expire on the **thirtieth (30th) day of April** of each year. **(Ord. No. 20-2005; 04-11-05)**

7-5-8 **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.

7-5-9 **DISPLAY OF LICENSE.** The license sticker provided for herein shall be applied conspicuously to the specific machine as described by serial number in the license application. Each machine shall be required to have a license and the applicant shall be required to secure a license for each and every machine displayed or operated. If the licensed machine is moved to another location within the City, the license may be transferred to the new location upon application to the Office of the City Clerk. The new location shall be subject to inspection by the Chief of Police in the same manner as provided in the previous sections of this Chapter. Any relocation and transfer shall conform to all applicable zoning regulations. **(Ord. No. 4-2001; 02-12-01)**

7-5-10 **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.

[NOTE: Video gambling license fees are found in Chapter 21, Article III.]

(65 ILCS 5/11-55-1)

ARTICLE VI - PARADE PERMIT

7-6-1 PERMIT REQUIRED. It shall be unlawful for any person, group or organization to conduct, sponsor or take part in any parade, march, assemblage or gathering, other than a funeral procession and High School Parades, in any public street, alley or other public way without first obtaining a permit as provided in the Code. The word "**event**" is used hereafter to refer to any parade, march, assemblage or gathering regulated by this Code. **(Ord. No. 480; 9-16-70)**

7-6-2 APPLICATIONS FOR PERMIT. Applications for a permit under this Code shall be made in writing to the City Chief of Police not less than **ten (10)** nor more than **thirty (30) days** prior to the date upon which the event is to be held. Each application shall state the name, address and phone number of the person, group or organization holding the event; the purpose of the event; the number of participants, vehicles and floats; the proposed route or location; the date and hour(s) for which the permit is desired; and such other pertinent data as would assist the City in making plans to conduct the event. Where good cause is shown therefore, the City Chief of Police shall have the authority to consider any application here under which is filed less than **ten (10) days** before the date such event is proposed to be held.

7-6-3 STANDARDS FOR ISSUANCE. The City Chief of Police shall issue a permit when he finds that:

- (A) The proposed route or location has not been reserved for other use on the date and hours requested in the application.
- (B) The conduct of the event will not substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic at or contiguous to the place where the same is conducted or held.
- (C) The conduct of the event will not substantially interrupt, prevent or unduly interfere with normal fire and police protection in the City.
- (D) The event is for a lawful purpose and is not intended to cause a public disturbance or breach of the peace.
- (E) The event is not held purely for the private profit of the person, group, or organization conducting or holding the event, or for the sole purpose of advertising any product or goods of such person, group, or organization.

7-6-4 ISSUANCE, DENIAL, ALTERNATIVE PERMITS. The City Chief of Police shall act upon the application within **five (5) days** after its receipt:

- (A) **Approval.** If approved, the City Chief of Police shall issue a permit which specifies the date of the event, its time of inception and duration, its route or location and such other information as he shall find necessary to the enforcement of this Code.
- (B) **Denial.** If the application is denied, the City Chief of Police shall immediately notify the applicant by mail, stating the reasons for the denial of the permit.
- (C) **Alternative Permits.** The City Chief of Police, in denying an application for a permit, shall be empowered to authorize the conduct of the event on a date, at a time, over a route, or at a location different from that named by the applicant. An alternate permit shall conform to the requirements of this Code.

7-6-5 APPEAL PROCEDURE. Any applicant aggrieved by the action of the City Chief of Police shall have the right to appeal the denial of the permit to the City Council within **ten (10) days** after receipt of notice. The City Council shall act upon the appeal within **ten (10) days** after receiving written notice of this appeal.

7-6-6 **NOTICE TO CITY OFFICIALS.** Immediately upon issuance of a parade permit, the City Chief of Police shall send a copy thereof to the Mayor, City Councilmen, and Fire Chief.

7-6-7 **PROHIBITED ACTS.**

(A) It shall be unlawful for any person, group or organization to disturb, interfere with, or obstruct any event permitted under this Code.

(B) It shall be unlawful for any person, group or organization to erect or place structures of a permanent or temporary nature along the route or at the site of an event without the written permission of the City Chief of Police.

(C) It shall be unlawful for any person, group or organization to conduct or take part in any event regulated by this Code other than at the time, place and route designated by the City Chief of Police.

(D) The City Chief of Police shall have the authority, when reasonably necessary to prohibit or restrict the parking of vehicles along a public street or highway which constitutes a part of the route or location of an event. Signs shall be posted to such effect, and it shall be unlawful to park or leave unattended any vehicle in violation thereof. No person shall be liable under this Section for parking on a street or public highway unless signs are posted thereon.

7-6-8 **REVOCAION OF PERMIT.** The City Chief of Police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth.

7-6-9 **AUTHORITY OF CITY CHIEF OF POLICE AND POLICE DEPARTMENT.** The City Chief of Police and the Police Department of the City are hereby authorized and empowered to take such lawful action as may be necessary to carry out the regulations and requirements of this Code, insure an orderly event, to prevent obstruction to and insure the full flow of traffic, and to prevent riots and disorder.

ARTICLE VII - HOUSE MOVERS

7-7-1 **LICENSE REQUIRED.** It shall be unlawful to engage in the business of house moving, raising or shoring without first having obtained a license therefore. Applications for such licenses shall be made in writing to the City Clerk.

7-7-2 **REGULATIONS.** Persons licensed under this Article must comply with all of the Code provisions relating to the work being done, and must pay the permit fee required for moving buildings, and must maintain lights and warnings as required by ordinance.

7-7-3 **INSPECTIONS.** It shall be the duty of the Chief of Police to make or cause to be made such inspections as may be necessary to insure compliance with the provisions of this Article.

7-7-4 **BOND.** Every licensee under the provisions of this Article shall file with the City Clerk a bond in the sum of **Ten Thousand Dollars (\$10,000.00)** with sureties to be approved by the Mayor, conditioned to indemnify the City for any loss, damage or expense occasioned by any act or failure to act of the licensee, or by any failure of the licensee to comply with the ordinances of the City relating to the business of house moving.

7-7-5 **PLANKING STREET.** The pavement of any street, alley or sidewalk on or along which any house is moved shall be protected by **two (2) inch planks** along the route. **[Also See Chapter 33]**

ARTICLE VIII - TAXICABS

7-8-1 **DEFINITIONS.** The following words and phrases, when used in this Article shall have the meanings set out herein:

"CALL BOX STAND" means a place alongside a street, or elsewhere where the City Council has authorized a holder of a Certificate of Public Convenience and Necessity to install a telephone or call box for the taking of calls and the dispatching of taxicabs.

"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.

"MANIFEST" means a daily record prepared by a taxicab driver of all trips made by that driver showing the time and place of origin, destination, number of passengers and the amount of fare of each trip.

"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.

"RATE CARD" means a card issued by the City Clerk for display in each taxicab which contains the rates of fare then in force.

"TAXICAB" means a motor vehicle regularly engaged in the business of carrying passengers for hire, carrying not more than **five (5) 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.

7-8-2 **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.

7-8-3 **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) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a Certificate.
- (E) The number of vehicles to be operated on controlled by the applicant and the location of proposed depots and terminals.
- (F) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.
- (G) Such further information as the City Council of this City may require.

7-8-4 **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.

7-8-5 **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. The City shall issue no more than **three (3)** taxicab company licenses at any **one (1) time.**

7-8-6 **INDEMNITY BOND OR 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 an indemnity bond for each vehicle authorized in the amount of **Fifteen Thousand Dollars (\$15,000.00)**, for bodily injury to any **one (1)** or more persons sustained in the same accident and **Five Thousand Dollars (\$5,000.00)** for the property damage resulting from any **one (1) accident.** The bond or bonds shall insure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants or his agents. The bond or bonds shall be filed in the office of the City Clerk and shall have as surety thereon a surety company authorized to do business in the State of Illinois.

The City Council may, in its discretion, allow the holder to file in lieu of bond or bonds, a liability insurance policy issued by an insurance company authorized to do business in the State of Illinois. The policy shall conform to the provisions of this Section relating to bonds.

7-8-7 **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.

7-8-8 **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 laws of the United States or the State of Illinois; the violations of which reflect unfavorably on the fitness 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.

7-8-9 **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.

7-8-10 **APPLICATION FOR DRIVER'S LICENSE.** An applicant 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.
- (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.
- (C) Each application shall be accompanied by a Certificate from a reputable physician of the City, certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe or unsatisfactory driver. At the time the application is filed, the applicant shall receive a temporary permit for **fifteen (15) days** or until a permanent license can be issued.

7-8-11 **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, color, age, signature and photograph of the applicant.

7-8-12 **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.

7-8-13 **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 in his behalf.

7-8-14 **FAILURE TO COMPLY WITH CITY, STATE AND FEDERAL LAWS.** Every driver 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.

7-8-15 **VEHICLES; EQUIPMENT; MAINTENANCE.**
(A) **Vehicles Must be Licensed.** Prior to the use and operation of any vehicle under the provisions of this Chapter, that vehicle shall be thoroughly examined and inspected by the Police Department and found to comply with such reasonable rules and regulations as may be prescribed by the City Council. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the City Council shall deem necessary therefore.

When the Police Department finds that a vehicle has met the standards established by the City Council, the Department shall issue a license to that effect, which shall also state the authorized seating capacity of that vehicle.

(B) **Periodic Inspections.** Every vehicle operating under this Chapter shall be periodically inspected by the Police Department at such intervals as shall be established by the City Council to insure the continued maintenance of safe operating conditions.

(C) **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 according to rules and regulations promulgated by the City Council.

7-8-16 **RATES OF FARE - RATE CARD REQUIRED.** No owner or driver of a taxicab shall charge a greater sum for the use of a taxicab than in accordance with the approved rates.

The company shall record any rate change and reason thereof with the City Clerk **thirty (30) days** prior to the effective date of any such changes. The City Council shall review these rate changes to see that the owner is operating in the best interest of the public, their convenience and necessity for which the permit was issued.

Every taxicab operated under this Chapter shall have a rate card setting forth the authorized rates of fare displayed in such a place as to be in view of all passengers.

7-8-17 **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. **(65 ILCS 5/11-31.1-6)**

7-8-18 **SOLICITING TRADE.** It shall be unlawful for the owner, operator or driver of any such vehicle to solicit the patronage of any person in the City.

(65 ILCS 5/11-42-6)

ARTICLE IX – RAFFLES AND POKER RUNS

7-9-1 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 a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(M) **"Religious Organization"**: Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) **"Veterans' Organization":** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

7-9-2 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".

7-9-3 APPLICATION FOR A LICENSE FOR A RAFFLE.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and age of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The area in which raffle chances will be sold or issued;
- (10) The time period during which raffle chances will be sold or issued;
- (11) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable 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.

7-9-4 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.

7-9-5 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.

7-9-6 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.

7-9-7 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.

7-9-8 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.

7-9-9 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.**

7-9-10 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.

7-9-11 PRIZE LIMITATIONS; TERM.

- (A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle or poker run shall not exceed **One Million Dollars (\$1,000,000.00)**;
- (B) The maximum retail value of each prize awarded by a licensee in a single raffle or single poker run shall not exceed **One Million Dollars (\$1,000,000.00)**;
- (C) The maximum price which may be charged for each raffle chance issued or sold or each poker hand shall not exceed **One Hundred Dollars (\$100.00)**;
- (D) The maximum number of days during which chances may be issued or sold or poker hands issued or sold shall not exceed **one hundred twenty (120) days**;
- (E) Licenses issued pursuant to this Code shall be valid for **one (1) raffle** and may be suspended or revoked for any violation of this Code;
- (F) Raffle chances shall be sold only within the boundaries of the County and the boundaries of any municipality;
- (G) Licenses shall be issued to bona fide religious, charitable, labor, fraternal, educational, or veterans' organizations that operate without profit to their members, and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objectives;
- (H) The above-mentioned types of organizations shall be defined pursuant to **230 ILCS 15/.01 et seq.**, being the Raffles and Poker Run Act;
- (I) No person, or organization shall be issued more than **one (1) license** in a period of **one (1) week**;
- (J) The manager of a raffle game or poker run shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** in favor of the organization conditioned upon his honesty in the performance of his duties. The Mayor or his designated representative is authorized to waive requirement for bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization. The terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than **thirty (30) days** prior to its cancellation.

ARTICLE X - AMBULANCE SERVICE

7-10-1 **LICENSE REQUIRED.** No person, firm or corporation shall conduct, engage in, maintain, operate, carry on or manage any enterprise providing ambulance services without first having obtained a license for such business, occupation, activity or establishment.

7-10-2 **MINIMUM STANDARDS.** Every person providing ambulance services within the City shall meet the equipment and staffing requirements of the Illinois Department of Public Health. The operational plan filed with Department of Public Health shall be filed with the City at the time application for license is made. The City shall be notified of all changes in equipment, staffing and operational plan within **ten (10) days** of the change. (**Ord. No. 05-2006; 01-23-06**)

7-10-3 **APPLICATIONS.** Applications for ambulance licenses shall be made to the City Clerk in writing on a form provided for that purpose, except as otherwise provided.

If the applicant is an individual (sole proprietorship), the application shall contain the individual's name, residence address, and residential telephone number. If the applicant is a partnership or other non-corporate business entity, the application shall contain the name and residential address and residential telephone number of each partner, principal, or member thereof. If the applicant is a corporation, the application shall contain the name residential address, and residential telephone number of each principal officer and the registered agent of the corporation.

Each application shall also contain:

- (A) the location or proposed location of the place of business;
- (B) the application fee as provided below;
- (C) proof of advanced life support systems, and;
- (D) such additional information as may be needed for the proper guidance of municipal officials in the evaluation of such application, including proof of any insurance policy or bond required by this Code.

7-10-4 **APPROVAL; DISAPPROVAL.**

(A) If, after due consideration of the information contained within the application, the Mayor shall determine that the application is satisfactory, he shall approve the application.

Thereupon, the City Clerk shall notify the applicant that the application has been approved. The license shall be signed by the Mayor, attested by the Clerk, and then issued to the licensee.

(B) If, after due consideration of the information contained within the application, the Mayor shall determine that matters concerning the application are unsatisfactory, he shall disapprove the application, indicating the reasons therefor. Thereupon, the Clerk shall notify the applicant that the application has not been approved and that no license or permit shall issue.

7-10-5 **LICENSE TERM; EXPIRATION; RENEWAL.**

(A) Each license shall indicate its term. All annual licenses shall be operative and the license year for the Municipality shall commence on the **first (1st) day of July** of each year. No license shall be granted for a period longer than **one (1) year**. Except where otherwise provided herein, every license shall expire on the **thirtieth (30th) day of June** following the date of issuance.

(B) The Clerk shall endeavor to notify each annual licensee of the expiration of time of the license held by the licensee at least **twenty-one (21) days** prior to such expiration date; provided, however, that a failure to make such notification or the licensee's failure to receive it shall not exclude the licensee from the obligation to obtain a new license or renewal.

(C) Except as otherwise provided herein, each license may be renewed upon proper application and payment of the required fee. The requirements and procedures for granting and issuing a license renewal shall be the same as the requirements and procedures for granting a new license.

7-10-6 **LICENSE NOT ASSIGNABLE; UNLAWFUL USE.**

(A) No license or permit may be assigned, sold, loaned, transferred, used as collateral, or otherwise encumbered. No person, firm, or corporation shall use or display any license certificate, tag, badge, or sticker that has been improperly acquired.

(B) No person, firm, or corporation shall alter, deface, forge, or counterfeit any license, certificate, plate, tag, badge, or sticker issued by the City of Herrin.

7-10-7 **PENALTY; ENFORCEMENT.** Whenever a person, firm, or corporation shall neglect or refuse to procure any license required by this Code, or shall otherwise violate the terms of this Article, the Mayor is authorized to cause appropriate legal action and proceedings to be instituted to enforce the license requirement. **(Ord. No. 9-2011; 03-03-11)**

7-10-8 **REVOCAION OF LICENSE.**

(A) Licenses issued by the City of Herrin, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in subsections (B) and (C) of this Section for any of the following causes:

- (1) Any fraud, misrepresentation, or false statement contained in the application for the license or permit.
- (2) Any violation by the licensee of provisions of this or other ordinances of the Municipality relating to the license, the subject matter of the license, or the premises occupied.
- (3) Conviction of the licensee of any felony or of a misdemeanor when such conviction indicates his inability to operate a safe, honest or legitimate business operation within the City.
- (4) Failure of the licensee to pay any fine, penalty or charge owed to the City.

Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable ordinances of the City.

(B) 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 a notice shall be sent by certified mail (return receipt requested) to the licensee at his last known address, at least **five (5) days** prior to the date set for the hearing.

(C) At the hearing, the City Attorney shall present the complaint and shall represent the City. The licensee 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.

(D) Within a reasonable time after the conclusion of the hearing, but not later than **thirty (30) days** after such conclusion, the Mayor shall file a written decision in which he has summarized the evidence and stated the reasons for his decision.

7-10-9 **APPEAL.** Any person aggrieved by the decision of the Mayor in regard to the denial of an application for an ambulance license, or in connection with the revocation of a license, shall have the right to appeal to the corporate authorities. Such appeal shall be taken by filing with the Clerk, within **ten (10) days** after the notice of a denial of an application or a revocation of a license, a written statement under oath setting forth specifically the grounds for the appeal. The corporate authorities 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 in the same manner as provided in **Section 7-10-8** hereof. The decision of the corporate authorities of such appeal shall be final.

7-10-10 **LICENSE FEE.** The annual license fee for ambulance services shall be **One Hundred Dollars (\$100.00)**.

**(Ord. No. 37-94; 01-09-95)
(65 ILCS 5/11-5-7)**

ARTICLE XI – TATTOO AND BODY PIERCING ESTABLISHMENTS

7-11-1 **LICENSE REQUIRED.** It shall be unlawful for any person to engage in the business of operating a tattoo or body piercing establishment in the City without obtaining a license to engage in such business in accord with the provisions herein.

7-11-2 **APPLICATION FOR LICENSE.** All applications for licenses to operate a tattoo or body piercing establishment shall be made in writing to the Office of the City Clerk and shall be accompanied by a license fee of **Two Hundred Fifty Dollars (\$250.00)**. Any change of ownership of the tattoo or body piercing establishment shall require a new application with payment of the fee. All applicants shall provide the names of tattoo artists who are to practice tattooing in the establishment.

7-11-3 **DEFINITIONS.** For purposes of this Article, the following definitions shall apply:

(A) **Body Piercing.** Any procedure whereby a part or parts of the human body are pierced by a sharp instrument in order to allow insertion of a piece or pieces of jewelry, through the orifice created.

(B) **Certificate of Inspection.** Written approval from the Code Inspector that the tattoo or body piercing establishment has been inspected and complies with all the terms of this Article relating to physical facilities and equipment for the operation of such business.

(C) **Operator.** Any person that owns or operates an establishment where tattooing or body piercing is performed, including any person who performs or practices the art of tattooing or piercing parts of the human body with a sharp instrument.

(D) **Tattoo.** Any method of placing designs, letters, scrolls, figures, symbols, or any other marks upon or under the skin with ink or any other substance resulting in the coloration of the skin by the use of needles or other instruments to touch or puncture the skin.

(E) **Tattoo Artist.** An individual who practices tattooing.

(F) **Tattoo Establishment or Shop.** Any premises where a tattoo artist practices tattooing.

(G) **Sanitize.** To treat a clean surface and destroy pathogenic microorganisms.

(H) **Single Service Items.** Articles intended for one time, one person use and to be discarded after one use.

7-11-4 **HEALTH AND SANITARY REQUIREMENTS.** Any person who operates a tattoo or body piercing establishment shall comply with the following requirements.

(A) The room in which the tattooing or body piercing is done shall have an area of not less than **one hundred (100) square feet**. The walls, floors and ceiling shall have an impervious, smooth and washable surface.

(B) All tables and other equipment shall be constructed in easily cleanable material, and shall be finished with a smooth washable surface and shall be separated from the waiting area by a wall.

(C) The entire premises and all equipment shall be maintained in a clean, sanitary condition and in good repair.

(D) Single service items, single service needles and individual containers of dye or ink only shall be used for each patron and the individual container shall be discarded after completing work on a patron and any dye or ink in which needles are dipped shall not be used on another person. After completion of work on any person, the tattooed area or pierced area shall be washed with sterile gauze and alcohol solution and allowed to dry.

(E) **Care of Instruments.** All clean and ready to use instruments shall be stored in a closed glass or metal case while not in use. A sterilizer shall be used to properly sterilize and sanitize all instruments before use on any patron.

(F) **Disposal.** All single service needles and dye and ink shall be disposed of in accord with the regulations of the Environmental Protection Act regarding the disposal of infectious wastes.

(G) **Use of Instruments.** The needles and instruments required to be sterile shall be used, handled and placed during the tattooing or body piercing process so as not to become contaminated.

7-11-5 REPORTING REQUIREMENTS. All tattoo operators shall report in writing to the City every change of the site at which the operator has been practicing tattooing. All such reports shall be made no later than **fourteen (14) days** after the date of the change.

All tattoo operators shall report in writing to the City every change in the names of tattooing artists engaged in tattooing at the establishment. Such report shall be made no later than **fourteen (14) days** after the change has occurred.

7-11-6 ENTRY ON PREMISES. The Code Inspector of the City may enter the business premises of any tattoo or body piercing establishment for the purpose of making necessary inspections to enforce the provisions of this Article.

7-11-7 LIABILITY INSURANCE REQUIRED. Any person operating a tattoo or body piercing establishment in the City shall obtain and maintain liability coverage in a minimum amount of **One Hundred Thousand Dollars (\$100,000.00)** and shall provide evidence of insurance upon application for or renewal of each license.

(Ord. No. 23-99; 05-10-99)

ARTICLE XII – SECOND HAND STORES

7-12-1 **DEFINITIONS.** As used in this Article, the phrase “second hand store” refers to a retail establishment which sell or offers for sale to the public, used goods, articles, or other items of personal property which have previously been owned by a person other than the retail establishment or the owner or operator thereof, before being offered for sale by, or placed on consignment with, such retail store. “Second hand store” does not include pawnbrokers as defined by the Pawnbroker Regulation Act.

7-12-2 **REGULATIONS.**
 (A) Each second hand store owner, operator, employee or agent shall require **two (2)** forms of identification to be provided by each person providing goods, articles and other items of personal property to the second hand store for resale or sale upon consignment. One of the **two (2)** forms of identification shall include the person’s residence address, and one of the **two (2)** forms of identification shall include the person’s photograph. Acceptable forms of identification shall include, but are not limited to, a valid driver’s license, social security card, utility bill, employee or student identification card, credit card, or a civic, union or professional association membership card.

(B) Each second hand store owner, operator or agent shall maintain true and accurate records of all goods, articles and items of personal property purchased or received by the second hand store for resale or sale on consignment. Such records shall include the following:

- (1) the name and address of the person from whom such goods, articles or items are purchased or accepted on consignment, as determined pursuant to paragraph (A);
- (2) a general description of such goods, articles, or items and serial number or model number, if any item has an identifying number;
- (3) the date and time the goods, articles, or items were purchased by the second hand store or received for sale on consignment.

(C) The records maintained pursuant to **Section 7-12-2(B)** shall be available upon request for inspection and copying by the Police Department or any other law enforcement agency with jurisdiction in the City. The records shall be maintained for a period of **two (2) years**.

(D) No goods, articles, or items purchased by a second hand store or placed on consignment for sale therein, shall be resold for a period of at least **seventy-two (72) hours** after receipt thereof by the owner, operator or agent of the second hand store.

(E) No second hand store shall purchase goods, articles, or items for resale, or accept consignment of goods, articles or items for sale from any minor or from any intoxicated person.

(F) The records maintained pursuant to **Section 7-12-2(B)** shall be confidential, and shall not be used or disclosed by the Police Department except in connection with an investigation or charge of a misdemeanor or felony, or in connection with a request in connection with an investigation or charge of a misdemeanor or felony from another law enforcement agency, the Williamson County State’s Attorney’s Office, or a court of law.

(G) The owner, operator, or agent of each second hand store, and each officer, director and manager of any corporation which is the owner or operator of a second hand store is responsible for violations of this Article by his, her or its employees.

(Ord. No. 28-2013; 09-23-13)

7-12-3 **PENALTIES.**
 (A) Any person or entity who pleads guilty or is found guilty by a court of law of any violation of any section of this Article, shall be punished as provided by **Section 1-1-20** of this Code.
 (B) The increased fines for second and third offenses as described in **Section 7-13-3(A)** herein shall apply to all second and third offenses occurring within any **twelve (12) month** period subsequent to a first offense of any section of this Article.

(C) Any person or entity who pleads guilty or is found guilty by a court of law of any violation of any section of this Article, may have any of his, her or its license(s) issued by the City for the purpose of doing business in the City suspended or revoked as deemed appropriate by the Mayor of the City of Herrin.

(Ord. No. 28-2013; 09-23-13)

(Ord. No. 55-99; 11-08-99)

ARTICLE XIII - ADULT USES

7-13-1 DEFINITIONS.

(A) **Adult Arcade.** Any place, wherein coin operated or token operated electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to persons, and where images so displayed are distinguished or characterized by depicting or describing "specified sexual activities or specified anatomical areas".

(B) **Adult Book Store.** An establishment having a substantial or significant portion of its stock in trade, books, magazines, films for sale or for viewing on the premises by use of motion picture devices or by coin operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas (as defined below), or an establishment with a segment or sections devoted to the sale or display of such materials; or an establishment that holds itself out to the public as a purveyor of such materials based on its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from such establishments, or any other factors showing the establishments primary purpose is to purvey such material.

(C) **Adult Entertainment Cabaret.** A public or private establishment which features:

- (1) topless or nude dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows;
- (2) not infrequently feature entertainers who display "specified anatomical areas", or
- (3) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in or are engaged in explicit simulation of "specific sexual activities" (as defined below).

(D) **Adult Nightclub.** An establishment which presents any form of entertainment which has an emphasis on specified sexual activities or specified anatomical areas (as defined below).

(E) **Adult Novelty Store.** An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, novelty clothing, lotions and other items distinguished or characterized by their emphasis on or use for "specified sexual activities" (as defined below), or "specific anatomical areas" (as defined below) or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment, or any other factors showing the establishment's primary purpose is to purvey such material.

(F) **Adult Theater.** An enclosed building or area used for presenting films or other presentations distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas (as defined below) for observation by patrons.

(G) **Obscenity.** Material of which the dominant theme taken as a whole appeals to the prurient interests and is without any redeeming social importance if it goes substantially beyond the customary limits of candor in description or representation.

(H) **Specified Anatomical Areas.** Less than completely or opaquely covered: human genitals, or pubic region, buttock, and female breast below a point immediately above the top of the areola; and human genitals in a discernibly turgid state, even if completely and opaquely covered.

(I) **Specified Sexual Activities.** Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy, fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

7-13-2 PROHIBITIONS. Complete nudity in an exhibition or strip dance, or other live performance amusement is prohibited.

(A) The owner or operator of an adult use amusement shall not engage in, or permit or suffer any person on the premise to:

- (1) Expose his or her genitals, pubic hair, buttocks, perineum region, anal region, natal cleft or pubic hair region; or
- (2) Expose any device, costume, or covering which the appearance of simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or
- (3) Expose any portion of the female breast below the areola thereof; or
- (4) Engage in a male or female strip show, lingerie (either male or female) fashion show, which includes any of the activity prohibited in subsections (1), (2) or (3) hereinabove.

(B) The owner or operator of an adult use amusement shall not engage in, or permit or suffer any of the following acts to be conducted on the premises:

- (1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or other sexual act.
- (2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, pubic hair, anus or genitals.
- (3) The actual or simulated display of the breasts, buttocks, pubic hair, anus, vulva or genitals.

7-13-3 **LICENSES.**

(A) **License Required.** It shall hereafter be unlawful for any person or persons to operate or maintain an adult use amusement of any kind without first obtaining a license from the City.

(B) **Term.** The license term shall be for a period of **one (1) year** and shall expire at the end of **one (1) year** from the date it is issued. The license holder may apply for a renewal by application to the City.

(C) **Cost of License.** The annual fee for an adult use amusement license shall be **One Thousand Dollars (\$1,000.00).**

7-13-4 **QUALIFICATIONS FOR LICENSE.** A license to operate or maintain an adult use amusement premise may be issued by the City to any citizen, firm or corporation of the State, who meets the following qualifications:

(A) Submits a written application for a license, which application shall state, and the applicant shall state under oath:

- (1) The name, address, and residence of the applicant, and the length of time he has lived at that residence;
- (2) The place of birth of the applicant, and if the applicant is a naturalized citizen, the time and place of naturalization;
- (3) That the applicant has never been convicted of a felony, or of a misdemeanor punishable under the laws of the State of Illinois by a minimum imprisonment of **six (6) months** or longer;
- (4) The location of the place or building where the applicant intends to operate or maintain the adult use amusement premise.
- (5) Establishes that he/she is a person of good character;
- (6) That the place or building where the adult use amusement premise is to be operated or maintained, reasonably conforms to all laws, and health and fire regulations applicable thereto, and is properly ventilated and supplied with separate and sufficient toilet arrangements for each sex, and is a safe and proper place for an adult use amusement premise;
- (7) That the business is not operated in conjunction with the sale, delivery, or consumption of alcoholic liquor.

(B) A manager of an adult use amusement facility shall meet the same qualifications as the owner.

7-13-5 **INVESTIGATION OF APPLICATION.** The City may make a thorough investigation to determine the fitness of the applicant and the truth of the statements made in and accompanying the application, but its decision on an application to issue or renew a license shall be rendered within **thirty (30) days** after the application is received.

7-13-6 **HOURS OF OPERATION.** The hours of operation of an adult amusement facility shall be established by the City after review and consideration of the application and description of the business.

7-13-7 **REVOCAION OF LICENSE.** The City may revoke the license for any of the following reasons:

(A) The owner or manager permits any person under the age of **twenty-one (21)** to be present in or to frequent such adult use facility, unless accompanied by a parent or legal guardian.

(B) When the adult use facility as operated and maintained, unreasonably and needlessly disturbs the peace of the neighborhood.

(C) When disorderly or immoral practices are permitted, or intoxicating liquor is sold, served, or consumed on the premises.

(D) When circumstances occur or become known to the City, which, had they happened or been known at the time the application was made for the license, would have legally justified the denial of the same.

(E) When the adult use amusement facility is opened or remains open outside the hours established by the City.

(F) When the licensee violates any provision of the Herrin City Code or applicable state statute.

7-13-8 **SIGNAGE.** Obscene language shall not be used on the outdoor signage advertising an adult business use.

7-13-9 **PROHIBITED PERSONS.** It shall be unlawful for any known prostitute, male or female procurer, vagrant, or intoxicated person to be present in any adult use amusement facility.

7-13-10 **ACCESSIBILITY.** No adult use business shall have any access which leads from such premise to any other portion of the same building or structure, or any adjacent building, which is used as a dwelling, lodging, or for the sale, delivery, or consumption of alcoholic liquor. Temporary walls or doors to separate the building are prohibited.

(Ord. No. 31-2002; 10-14-02)

(65 ILCS 5/11-42-5)

**ARTICLE XIV – ENTERTAINMENT FACILITIES FOR
PERSONS UNDER THE AGE OF TWENTY-ONE**

7-14-1 **LICENSE REQUIRED.** No person shall operate or conduct any business for profit which caters to persons under the age of **twenty-one (21)** without having first obtained a license in accord with this Article, issued by the City.

7-14-2 **APPLICATION FOR LICENSE.** Applications for a business license shall be made to the City, in writing, on a form to be provided by the City Clerk to the applicant, and shall include the following information:

(A) The name, age, and address of the applicant, in the case of an individual, and in the case of a partnership, the persons entitled to share in the profits from the operation of the business. In the case of a corporation or a limited liability company, the date of incorporation or formation, the names and address of all of the officers and directors, or members, and the names and addresses of all persons owning **ten percent (10%)** or more of the business.

(B) The character of the business of the applicant, and a copy of the Articles of Incorporation or organization shall be attached to the application.

(C) The length of time the applicant has been engaged in the business of this character.

(D) The location and description of the premises or place of business which is to be operated under such license, including the square feet to be licensed, and a drawing of the premises shall be attached.

(E) Whether the applicant has ever had a license revoked or suspended, and the reasons therefor.

(F) Failure to provide all requested information on the application will result in a denial of the license.

7-14-3 **PROHIBITED LICENSES.** No business license shall be issued to the following:

(A) A person who is not of good character and reputation in the community in which he resides.

(B) A person who is not **twenty-one (21) years** of age.

(C) A person who has been convicted of a felony under any federal or state law.

(D) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.

(E) A person who, at the time of application for renewal of any license would not be qualified to obtain a license.

(F) A partnership, unless all of the members of such partnership shall be qualified to obtain a license.

(G) A corporation, if any officer, manager, or director thereof, or any stockholder 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.

(H) A person whose place of business is conducted by a manager, or agent, unless the manager or agent possesses the same qualifications of the licensee.

(I) A person who has been convicted of a violation of any federal or state law concerning the manufacture or sale of alcoholic liquor.

(J) A person who does not 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.

(K) Any person who is not a resident of the City, other than a corporation.

7-14-4 **LICENSE FEE.** The annual fee for a business license to operate a facility for persons under the age of **twenty-one (21)** shall be **Seven Hundred Fifty Dollars (\$750.00)**.

7-14-5 NATURE OF LICENSE. A license issued under this Article shall be 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.

Such license shall not descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee, provided that the executor of any estate may continue the business upon order of any having jurisdiction of such estate.

A licensee may renew the license at the expiration thereof, provided that he is then qualified to receive a license. The renewal privilege shall not be construed as a vested right and may be denied by the City.

7-14-6 INSURANCE REQUIRED. Prior to the issuance of any license, the applicant shall submit proof of liability insurance in an amount not less than **Five Hundred Thousand Dollars (\$500,000.00)** per occurrence and **One Million Dollars (\$1,000,000.00)** in the aggregate.

7-14-7 REPORTING REQUIREMENTS. Any change in the ownership interests in a partnership, or a change in any officers, directors or persons holding **ten percent (10%)** interest of the stock or shares, shall be reported within **ten (10) days**, in writing, to the City. All new partners, officers, members or directors shall meet all the requirements of this Article and must qualify to hold a license.

7-14-8 CESSATION OF BUSINESS. A licensee who ceases to do business or who closes the business for more than **ten (10) consecutive days** shall give the City written notice of such cessation or closing, within **five (5) days** of the closing. Any licensee who ceases to do business or closes the business for a period of more than **twenty (20) successive days** shall be subject to having the license revoked.

7-14-9 HOURS. It shall be unlawful for any licensee under this Article to be open for business in the City after **Midnight Sunday through Saturday**.

7-14-10 PROHIBITIONS – ALCOHOL/TOBACCO. It shall be unlawful for any licensee holding a license under this Article to have any alcoholic liquor on the premises at any time during business hours.

It shall be unlawful for any licensee holding a license under this Article to sell tobacco products on the licensed premises.

It shall be unlawful for any licensee holding a license under this Article to permit activity commonly known as "adult entertainment" to occur upon the premises.

It shall be unlawful for any licensee holding a license under this Article to permit persons to enter or be upon the licensed premises, unless the persons are between the ages of **sixteen (16) and twenty (20)**. All persons entering the licensed premises shall have a photographic identification in their possession. **(Ord. No. 31-2005; 06-13-05)**

7-14-11 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the County Health Department, which regulates health standards.

7-14-12 OPEN VIEW INTO INTERIOR. In premises which cater to persons under the age of **twenty-one (21)**, no screen, blind, or partition shall be permitted in the windows or upon the doors of such licensed premises which shall prevent a clear view into the interior.

7-14-13 **ACCESS TO LIVING QUARTERS OR OTHER BUSINESSES.** No business licensed under this Article shall have access which leads from such premises to any other portion of the same building used for dwelling purposes, or any other commercial operation.

7-14-14 **LIABILITY OF LICENSEE.** Every act or omission of whatsoever nature constituting a violation of the provisions of this Article by any officer, manager, employee or agent of licensee, shall be deemed and held to be the act of such licensee and the licensee shall be subject to penalties the same as if the act or omission had been committed or omitted by him personally.

7-14-15 **REVOCAION OF LICENSES.** The Mayor, in addition to those enumerated in this Chapter, shall have the following powers, functions and duties with respect to licenses granted under this Article.

(A) In addition to and not limited by the specific penalties set out for violations of specific sections of this Article, the Mayor may suspend up to **thirty (30) days** or revoke any license issued under this Article for the violation of law by any licensee, his agent, servant or employee.

(B) The Mayor may suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) The Mayor may enter or authorize any law enforcement officer to enter at any time upon any licensed premise to determine whether any of the provisions of this Article or the laws of the State of Illinois have been or are being violated, and to examine the premises of the licensee in connection therewith.

(D) **Complaint by Residents.** Any resident of the City shall have the right to file a complaint with the Mayor, stating that any licensee under this Article has been or is violating the provisions of this Article, or any amendments thereto, or any of the statutes of the State of Illinois. Such complaint shall be in writing and shall be signed and sworn to by the party(s) 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 Mayor 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.

7-14-16 **REVOCAION/SUSPENSION OF LICENSE.**

(A) The Mayor shall revoke or suspend any license issued pursuant to this Article if he determines that the licensee has violated any of the provisions of this Article. In addition to any suspension, the Mayor may levy a fine on the licensee for such violation. The fine imposed shall not exceed **One Thousand Dollars (\$1,000.00)** for each violation; each day the violation continues shall constitute a separate violation. Not more than **Ten Thousand Dollars (\$10,000.00)** may be imposed against a licensee in any one license year.

(B) No license shall be revoked or suspended and no licensee shall be fined except after a public hearing by the Mayor, 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 Mayor shall maintain an official record of the proceedings.

(C) In the event the Mayor has reason to believe that the continued operation of the specific licensed premises will threaten the welfare of the community, he may, upon the issuance of a written order, stating the reasons for such conclusion, 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 this period. Such an order shall not be applicable to another business which may be located on the licensed premises.

(D) The Mayor shall within **five (5) days** of the hearing, issue a written order stating his findings and the penalty to be imposed, if any. A copy of the written order shall be served upon the licensee within the **five (5) day** period.

(Ord. No. 18-2005; 04-11-05)

ARTICLE XV – CAMPGROUND LICENSING

7-15-1 **DEFINITIONS.** As used in this Article, the following definitions shall apply:

(A) **Recreational Area.** Any area of land which is designed, constructed, operated or maintained either free of charge or for revenue purposes for recreational activities.

(B) **Recreational Activities.** Includes, but is not limited to, hunting, fishing, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, festivals, public gatherings, or any other purpose, including, but not limited to educational, vocational, and religious activities and assemblies.

(C) **Person.** Any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, or limited liability company.

(D) **License.** A certificate issued by the City allowing a person to operate and maintain a campground under the provisions of this Article.

(E) **Sanitary Station.** A facility used for the removal and disposal of waste from holding tanks.

(F) **Service Building.** A structure housing toilet, lavatory and such other facilities as may be required by this Article.

(G) **Recreational Vehicle.** A vehicular type unit, primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, such as travel trailer, camping trailer, truck camper, motor home, and park model home.

(H) **Dependent Recreational Vehicle.** One that is dependent upon a service building for toilet and lavatory facilities.

(I) **Self-Contained Recreational Vehicle.** One that can operate independent of connections to sewer, water and electric systems. It contains a water flush toilet, lavatory, and kitchen sink, all of which are connected to water storage and sewage holding tanks, located within the vehicle.

(J) **Applicant.** Any person making application for a license.

(K) **Owner.** The person in whose name legal title to the property is recorded, unless the property is held in a land trust, in which case the owner is the holder of beneficial title.

(L) **Licensee.** Any person having a license under this Article.

(M) **Campground.** A recreational area where **three (3)** or more tents, cabins, recreational vehicles or other permanent or non-permanent type shelters are erected and maintained for camping or where space is provided for camping, temporary parking of recreational vehicles or other permanent or non-permanent type shelters of any kind for **three (3)** or more persons or for **five (5)** or more camping days during the calendar year. It shall include any structure, tent, vehicle, enclosure, appurtenance or recreational equipment related to or used or intended for use as a part of such campground and an area upon which no more than **three (3)** mobile homes are located for permanent habitation.

(N) **Operator.** The person who has been designated by the owner as responsible on his behalf for the operation of the premises.

(O) **Camping Day.** Any **twenty-four (24) hour** period or portion thereof during which the participants remain overnight at the site.

(P) **Camping.** The act of resting or establishing temporary shelter using a tent, cabin, recreational vehicle or other permanent or non-permanent type shelter erected or placed on an area of land.

7-15-2 **COMPLIANCE WITH ACT.** Any person who constructs, operates, maintains or owns a recreational area shall comply with the requirements of this Article, and all recreational areas that are campgrounds shall be licensed in accord with this Article.

It shall be unlawful for person to construct, or make major alterations or extensions of any campground as herein defined unless he holds a valid permit issued by the City's Code Inspector. All applications shall be on the forms provided by the City and shall include the following information:

(A) Name and address of applicant.

- (B) Name and address of all persons holding an interest or having an interest in the campground.
- (C) Interest of applicant in the campground.
- (D) Location and legal description of the campground.
- (E) Plans and specifications of the campground, showing:
 - (1) Area and dimensions of the tract of land.
 - (2) Number, location, and size of all camp spaces.
 - (3) Location and width of roadways and walkways.
 - (4) Location of service buildings, sanitary stations, and any other proposed structures or facilities.
 - (5) Location of water and sewer lines and riser pipes.
 - (6) Plans and specifications of water supply, refuse and sewage disposal facilities.
 - (7) Plans and specifications of all buildings to be constructed on the campground.
 - (8) Location and details of all lighting and electrical systems.
- (F) The calendar months of the year during which the applicant will operate the campground.
- (G) An application fee of **One Hundred Dollars (\$100.00)** shall accompany the application.

7-15-3 **LICENSE REQUIRED.** Applications for renewals of licenses shall be made in writing and shall include any change in information since the original license was issued. License applications shall be accompanied by a fee of **One Hundred Dollars (\$100.00)**.

7-15-4 **RENEWALS.** Applications for renewal of licenses shall be made in writing by the holders of the licenses, on forms furnished by the City, and shall be accompanied by a license fee of **One Hundred Dollars (\$100.00)**, and shall include any change in the information submitted with the original license application. Applications received after the expiration date of the existing license shall be subject to a **Twenty-Five Dollar (\$25.00)** late fee.

7-15-5 **CONDITIONAL LICENSE.** If the Code Inspector finds that the facilities of any campground for which a license is sought is not in compliance with this Article, but that such area is habitable without danger to inhabitants and the public, a conditional license may be issued setting forth the conditions on which the license is issued, the manner in which the area fails to comply with this Article and a specific time within which the applicant must make the required changes or corrections. **Two (2)** consecutive conditional licenses shall not be issued with respect to any one campground.

7-15-6 **INSPECTIONS.** The City is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this Article. The City shall have the authority to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the requirements of this Article.

7-15-7 **REGISTER OF VEHICLES AND PERSONS.** The licensee shall maintain a record of all recreational vehicles and persons using the campground.

7-15-8 **VIOLATIONS.** When there are grounds to believe that there has been a violation of this Article, the City shall give notice of such violation to the owner, operator, licensee or permit holder. Such notice shall be in writing, include a statement of the reasons for the issuance of the

notice, and allow reasonable time for the correction of the violation. The notice shall contain an outline of the remedial action that will be required to comply with the provisions of this Article.

7-15-9 REVOCATION OF PERMIT. The City shall in any proceeding to revoke or refuse to issue a license, first serve upon the owner, operator or licensee, a written notice specifying the manner in which this Article has been violated. The notice shall require the owner, operator, or licensee to remove or abate such violation within **five (5) days**. If the owner, operator or licensee fails to comply with the terms and conditions of the notice within the time specified, the City may revoke or suspend the license.

7-15-10 HEARING. Any person refused a license or whose license has been revoked or suspended has a right to a hearing. A written notice of a request for a hearing shall be served on the City within **ten (10) days** of the notice of revocation or suspension. The City shall provide notice of the date, time and place of the hearing upon the owner, operator, or licensee by certified mail.

7-15-11 FINDINGS/DECISION. The Mayor, or a committee appointed by the Mayor, shall conduct the hearing and shall render a decision within **thirty (30) days** after the termination of the hearing. A copy of the decision shall be forwarded to the owner, operator or licensee.

(Ord. No. 35-2003; 07-28-03)

ARTICLE XVI – RIDE-SHARING VEHICLES

7-16-1 APPLICATION. All individuals who wish to offer ride-sharing services are hereby required to apply for a City permit in order to provide such a service similar to Lyft or Uber.

7-16-2 FEE. The annual fee of **Thirty Dollars (\$30.00)** shall be paid for each vehicle at the start of the ride-sharing service. The fee shall be paid each year on the anniversary date of the initiation of the service.

7-16-3 REGULATIONS. All owners of a ride-service vehicle shall comply with the applicable regulations for taxicabs in **Article VIII** of this Chapter.

APPENDIX "A"

FEES

Pursuant to **Section 7-1-5**, the following permit fees shall be assessed and paid as follows:

- (A) Solicitors \$15.00 per person per day
- (B) Peddlers 15.00 per person per day
- (C) Junk Yards 250.00 per yard per year
- (D) House Movers 10.00 per year, PLUS
5.00 per house moved
- (E) Taxicab Companies 100.00 for the first vehicle,
PLUS 25.00 per additional vehicle
- (F) Coin-Operated Amusement Machines 50.00 per machine per year
- (G) Pool Hall 15.00 per table per year
- (H) Gambling Machines 50.00 per machine

(Ord. No. 2-2021; 03-08-21)

EXHIBIT "A"

APPLICATION FOR AN OUTDOOR PYROTECHNIC DISPLAY PERMIT

PART A – DISPLAY SPONSOR INFORMATION

Display Sponsor's Name	Telephone Number
Address	Cell Phone

PART B – PYROTECHNIC DISTRIBUTOR INFORMATION

Pyrotechnic Distributor's Name	OSFM License	
Address	Telephone Number	
Location Where Fireworks Stored	Storage Dates	
Lead Pyrotechnic Operator's Name	OSFM License	
Assistant's Names	Date of Birth	License No. (if any)
Liability Insurance: (not less than \$1,000,000.00)		
Name and Address of Insurer	Telephone Number	
Policy Number	Coverage Dates	
Type of Coverage		
List Type, Size and Approximate Number of Fireworks to be Displayed: (if you need more space, please attach a separate sheet of paper.)		

PART C – DISPLAY INFORMATION

Display Location	
Property Owner's Name	Telephone Number
Owner's Address (if different than Display Location)	
Date of Display	Time of Display
Alternative Date	Time of Alternative Display
By signing below, the Owner of the property on which the Outdoor Pyrotechnic Display will take place, hereby authorizes the Display Sponsor and the Pyrotechnic Distributor to perform the Outdoor Pyrotechnic Display on said property.	
Signature:	

PART D – SITE INSPECTION INFORMATION

Answer the following questions	Yes	No
Is distance to any fire hydrant or water supply greater than 600'?		
Is display area clear from overhead obstructions?		
Have provisions been made to keep the public out of display area?		
Is a hospital, nursing home, or other institution within 600' of the display site?		
Have provisions been made for on-site fire protection during the display?		
Has a diagram of the display site been attached to this application?		
Identify the largest mortar size (in inches) you intend to use.		
Identify the minimum secured diameter of the display site (in feet) based on the largest mortar size.		

**PART E – FIRE DEPARTMENT AUTHORIZATION
(Completed by Fire Department)**

Department Name	Telephone Number	
Department Address		
Based on review of the Display Site, the provided Diagram, And this application:	Yes	No
Have you verified the answers the applicant has given to Part D of this application?		
Will the performance of the described Outdoor Pyrotechnic Display at the planned display site be hazardous to property or endanger any person?		
By signing below, the Fire Chief of the above-identified fire jurisdiction, or his or her designee, hereby acknowledges that he or she inspected the Display Site:		
Signature:		
Print Name:	Date	

PART F – DIAGRAM OF DISPLAY SITE (Completed by the Applicant)

In the space provided below, draw and identify the location of the following items:
Streets, Discharge Site, Fallout Area, Parking Area, Spectator Area, Buildings, Overhead Obstructions, and Spotters.
The associated separation distances must also be shown. Do not forget to identify the direction in your drawing:

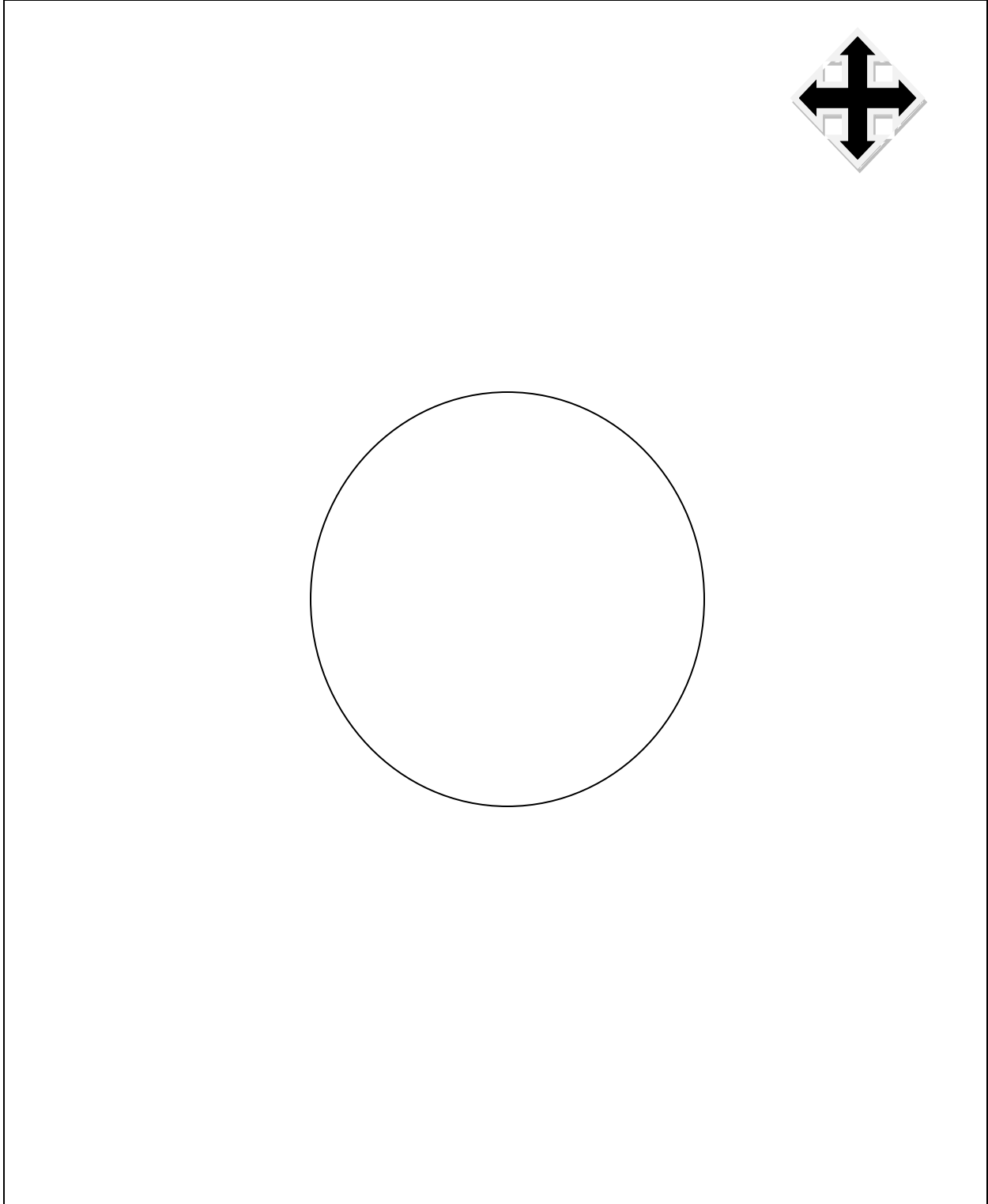


EXHIBIT "B"

OUTDOOR PROFESSIONAL DISPLAY SITE CHECKLIST

PART A – DISPLAY INFORMATION

Name of Company: _____ License No. _____

Name of Lead Operator: _____ License No. _____

Location of Display: _____

Venue Contact: (Name, Address and Telephone Number)

Date of Display: _____ Alternative Display Date: _____

<u>Assistants Names</u>	<u>Date of Birth</u>	<u>License No. (If Any)</u>

PART B – DISPLAY SITE SELECTION/MINIMUM DISTANCES

- Did the operator provide you a copy of the Display Site plan? The display site plan must include the dimensions and locations of the discharge site, the fallout area, and identify the spectator viewing area and parking areas which must be located outside of the display site. The associated separation distances must also be shown.
- Identify the largest mortar size in inches: ()
- The minimum display site size required to conduct the display is based on the size of the largest mortar. To determine the minimum area for the display site, go to Table 1 and read the number next to size of the largest mortar identified above:

Table 1

Mortar Size (in inches)	Minimum Secured Diameter of the Site (in feet)
<3	280
3	420
4	560
5	700
6	840
7	980
8	1120
10	1400
12	1680

Where unusual or safety-threatening conditions exist, the authority having jurisdiction shall be permitted to increase the required separation distances as it deems necessary.

- Spectators and spectator parking areas must be located outside of the display site.

- Dwellings, buildings, and structures are not permitted to be located within the display site without the approval of the authority having jurisdiction and the owner and the dwelling, building, or structure is unoccupied during the display. The building may remain occupied if the structure provides protection through substantial noncombustible or fire-resistant construction for the occupants.
- Fire protection personnel and their vehicles and other emergency response personnel and vehicles shall remain at or beyond the perimeter of the display site during the actual firing of the display.
- Review sample Display Site Plan at end of this document.

PART C – LOCATION OF DISPLAY

- Mortars shall be placed at the approximate center of the display site.
- There shall not be any overhead object over the mortars or within 25 ft of the trajectory of any aerial shells.
- Ground display pieces shall be located a minimum distance of 75 ft from spectator viewing areas and parking areas.
 - Exception: For ground pieces with greater hazard potential (such as large wheels with powerful drivers, and items employing large salutes) or all roman candles and multishot devices, the minimum separation distance shall be increased to 125 ft (38 m).

PART D - MORTARS

- Mortars shall be positioned and spaced so that shells are propelled away from spectators, over the fallout area, and to afford maximum protection to the shooter and loader. Under no circumstances shall mortars be angled toward the spectator viewing area.
- Mortar racks or bundles shall be constructed in a thorough and workmanlike manner to be capable of holding multiple mortars in position during normal functioning. Mortar racks or bundles that are not inherently stable shall be secured or braced to stabilize them. Stabilization shall be accomplished by using stakes, legs, A-frames, side-boards, or equivalent means.

PART E – GROUND DISPLAY

- To the extent that it is practical, all ground display pieces shall be positioned outside the discharge area of aerial displays.
 - Exception: Where aerial shells have been preloaded, ground display pieces shall be permitted to be located in that discharge area.
- Dry grass or combustible materials located beneath ground display pieces shall be wet down before the display if they are in sufficient quantity to be a fire hazard.
- Poles for ground display pieces shall be securely placed and firmly braced so that they do not fall over during functioning of the fireworks device.

PART F – DISPLAY SITE SAFETY

- The authority having jurisdiction and the operator shall meet and determine the level of fire protection required.
- During the period before the display, where pyrotechnic materials are present, unescorted public access to the site shall not be permitted.
- Are there enough monitors positioned around the discharge site to prevent spectators or any other unauthorized persons from entering the discharge site? The discharge site must be restricted throughout the display and until the discharge site has been inspected after the display. The authority having jurisdiction may approve delineators or barriers to be used in crowd control.

- Does the display have at least two spotters, or preferably more, assigned to watch the flight and behavior of aerial shells and other aerial fireworks to verify that they are functioning as intended. If any unsafe condition is detected, such as hazardous debris falling into the audience, the spotter shall signal the shooter to cease firing until the unsafe condition is corrected. The spotters shall be in direct communication with the shooter during the conduct of the display, with an effective means of informing the shooter of any hazardous condition.

PART G – DISCHARGE AREA SAFETY

- During the firing of the display, all personnel in the discharge site shall wear head protection, eye protection, hearing protection, and foot protection and shall wear cotton, wool, or similarly flame-resistant, long-sleeved, long-legged clothing. Personal protective equipment, as necessary, shall be worn by the operator and assistants during the setup and cleanup of the display.
- No person shall ever place any body part over the mortar during the loading and firing of a display until mortars have been checked for the absence of any shells following the display.
- Smoking materials, matches, lighters or open flame devices shall not be allowed within 50 ft (15 m) of any area where fireworks or other pyrotechnic materials are present.
 - Exception: Devices such as fuses, portfires, and torches shall be permitted to be used to ignite fireworks.
- No person shall be allowed in the discharge area while under the influence of alcohol, narcotics, or medication that could adversely affect judgment, mobility, or stability.
- The first shell fired shall be observed carefully to determine that its trajectory is such that the shell functions over the fallout area and that any hazardous debris or unexploded shells land in the fallout area. The display shall be interrupted and the mortars shall be reangled or repositioned as necessary for safety at any time during an outdoor fireworks display.

PART H – HALTING DISPLAY

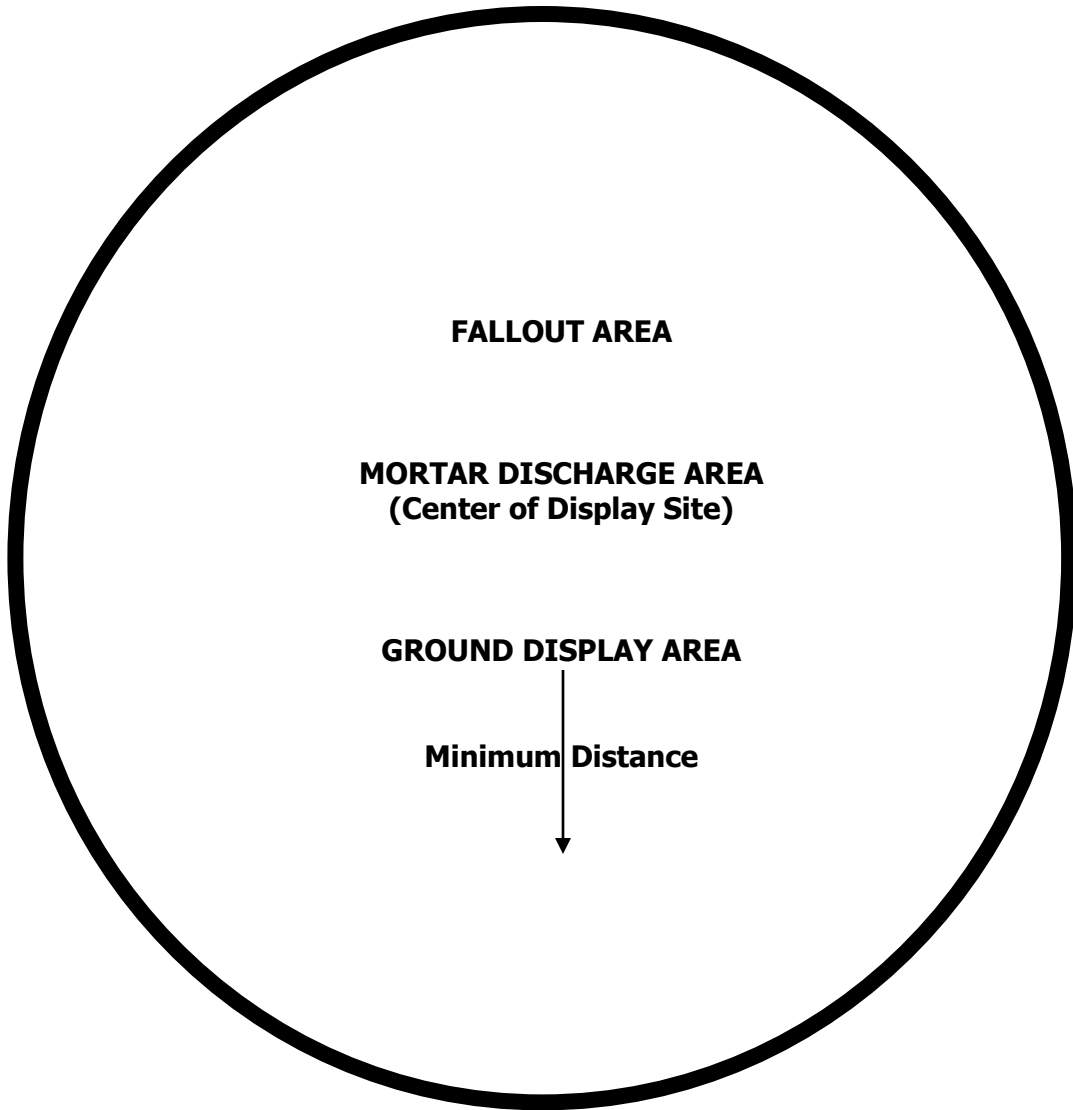
- Wherever, in the opinion of the authority having jurisdiction or the operator, any hazardous condition exists, the fireworks display shall be postponed until the condition is corrected. Such conditions include but are not limited to the following:
 - The lack of crowd control,
 - If high winds, precipitation, or other adverse weather conditions prevail, or
 - If any unsafe condition is detected, such as hazardous debris falling into the audience, the spotter shall signal the shooter to cease firing until the unsafe condition is corrected.
- In the event of a condition arising requiring the entry of fire protection or other emergency response personnel into the fallout area or security perimeter, the display shall be halted until the situation is resolved and the area is once again clear.

PART I – POST DISPLAY INSPECTION

- Following the display, the firing crew shall conduct an inspection of the fallout area for the purpose of locating any unexploded aerial shells or live components. This inspection shall be conducted before any public access to the site shall be permitted.
- Where fireworks are displayed at night, a search of the fallout area shall be made immediately after the display and at first light the following morning by the operator or designated personnel acceptable to the authority having jurisdiction.

DISPLAY SITE PLAN

← **MINIMUM SECURED DISTANCE** →



SPECTATOR VIEWING AREA

VEHICLE PARKING AREA

EXHIBIT "D"

Once the Fire Chief, or his or her designee, has signed this permit form, you must return to the local governmental authority issuing the permit to have it signed by the designated Officer in order for the permit to be valid.

OUTDOOR PYROTECHNIC DISPLAY PERMIT

Date _____ Permit No. _____

PERMITTEES:

Display Sponsor _____

Pyrotechnic Distributor _____

The above-identified permittees are hereby granted permission to conduct an Outdoor Pyrotechnic Display, using Display Fireworks, on _____,

(Month, Day, Year)

at _____ in _____, Illinois.

(Time)

(City/Village/Township/Unincorporated County)

In the event the display cannot be held on that date, the permittees are given permission to conduct said display at the above-identified location on _____,

at _____.

(Month, Day, Year)

(Time)

The Lead Pyrotechnic Operator, _____, is hereby

(Name)

designated as the supervisor of the display, and given overall responsibility for the safety, setup, discharge and supervision of the detonation, ignition, or deflagration of the Display Fireworks during the Outdoor Pyrotechnic Display.

Issuing Officer

I have reviewed the permit, inspected the site and approve this permit.

Fire Chief (or Designee)

This permit is non-transferable and must be in possession of the Lead Pyrotechnic Operator during the Outdoor Pyrotechnic Display.

CHAPTER 8 – CABLE TELEVISION

<u>ARTICLE</u>		<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GENERALLY</i>		
	<i>Section 8-1-1</i>	- <i>Mediacom Illinois LLC Fee</i>	<i>8-1</i>
	<i>Section 8-1-2</i>	- <i>Fee Due Quarterly</i>	<i>8-1</i>
	<i>Section 8-1-3</i>	- <i>Gross Fee Calculated</i>	<i>8-1</i>
	<i>Section 8-1-4</i>	- <i>Revenue Not Included</i>	<i>8-1</i>
	<i>Section 8-1-5</i>	- <i>Section Rule Unconstitutional</i>	<i>8-1</i>

CHAPTER 8

CABLE TELEVISION

ARTICLE I - GENERALLY

8-1-1 **MEDIACOM ILLINOIS LLC FEE.** Mediacom Illinois LLC 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.

8-1-2 **FEE DUE QUARTERLY.** The service provider fee payment shall be due quarterly and payable within **forty-five (45) days** after the close of the 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.

8-1-3 **GROSS FEE CALCULATED.** 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 Mediacom Illinois LLC for the operating of its cable system to provide cable or video service within the City, including the following:

- (A) recurring charges for cable service 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; and
- (F) late payment fees or charges, insufficient funds check charges and other charges assessed to recover the costs of collecting delinquent payments.

8-1-4 **REVENUE NOT INCLUDED.** For purposes of the calculation of the service provider fee, "gross revenues" shall not include:

- (A) revenues not actually received, even if billed, such as bad debt;
- (B) the service provider fee or any tax, fee or assessment of general applicability;
- (C) any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications service, voice over internet protocol (VoIP) services, information services, the provision of directory or internet advertising or any other revenues attributed by the holder to non-cable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and applicable laws, rules, regulation, standards or order;
- (D) security deposits collected from subscribers; or
- (E) 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.

8-1-5 **SECTION RULE UNCONSTITUTIONAL.** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinances 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. 33-2015; 10-12-15)

CHAPTER 9 – CEMETERY

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>MISCELLANEOUS</i>	
	<i>Section 9-1-1 - Definitions</i>	<i>9-1</i>
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CHAPTER 9

CEMETERY

ARTICLE I - MISCELLANEOUS

9-1-1 DEFINITIONS.

"Burial" means the act of or result of interment.

"Box". A grave liner or outside container consisting of one piece and lid which is unsealed.

"Cemetery" refers to the Herrin City Cemetery.

"City" is the City of Herrin, Illinois.

"Entombment" means the disposition of human remains in a mausoleum.

"Grave Marker" or "Headstone" is the stone intended to indicate the location of a particular grave and shall be set level with the ground.

"Lot". The term shall apply to numbered divisions as shown on the plat which consist of **one (1)** or more spaces or plots.

"Lot Marker". Any device installed or placed by Cemetery personnel to designate the corners of a lot or plot.

"Memorial". The term shall include a monument, marker, headstone or tomb for family of individual use.

"Monument". The term monument shall include a tombstone or memorial of granite or marble which may extend above the surface of the ground.

"Plot" shall apply to a space of sufficient size to accommodate **one (1) adult**. Interments are approximately **three by eight feet (3' x 8')**.

9-1-2 ESTABLISHMENT.

The land owned by the City and known as the Herrin City Cemetery shall remain dedicated for burial purposes. No other cemetery shall hereafter be established within the City.

9-1-3 SUPERVISION.

The Herrin City Cemetery shall be under the supervision of the Director of Public Works, who shall have the management and control of the Cemetery and all affairs connected therewith. The Director shall oversee the care and protection of the Cemetery and assure that all provisions of the Code relating to the Cemetery are enforced.

9-1-4 SEXTON.

The Mayor may appoint, with the advice and consent of the City Council, a Cemetery Sexton. The Sexton shall work under the direction of the Director of Public Works and have charge of the day to day operations of the Cemetery. The Sexton shall have the responsibility to keep and preserve in good condition and repair the grounds, buildings, walkways, driveways, and assure that all provisions of this Chapter are enforced.

9-1-5 SPECIAL CIRCUMSTANCES.

Special circumstances may arise in which the literal enforcement of a rule or regulation may result in unnecessary hardship. The Cemetery Sexton shall have the authority to make exceptions or suspend the rules and regulations in hardship cases, without notice. Such temporary exception or suspension of rules shall not be construed as a permanent change in the rules or regulations. The City hereby expressly reserves the right to adopt additional rules or to amend, modify or repeal any rule, regulation, section or paragraph of this Chapter at any time. Notice of any rule changes shall be given to preclude any inconvenience to lot owners.

9-1-6 **CARE OF CEMETERY.** The City retains the authority to maintain the Cemetery roadways and walkways, to keep all Cemetery grounds mowed, trimmed and free from trash, to remove any curb, corner posts or other structures which do not comply with Cemetery rules and regulations and fill and seed all graves experiencing settling as soon as the condition of the soil permits.

9-1-7 **CONDUCT OF PERSONS IN THE CEMETERY.**

(A) **Signs.** No advertisements, notices or signs of any nature shall be placed in the Cemetery unless placed by the City.

(B) **Hours.** The Cemetery is open from **7:00 A.M.** until sunset. Permission to enter the Cemetery at other times shall be obtained from the Sexton.

(C) **Animals.** Dogs are not permitted in the Cemetery except guide dogs. Other animals shall not be permitted in the Cemetery.

(D) **Rubbish/Trash.** Visitors are prohibited from disposing of rubbish and trash on drives and paths or in any part of the Cemetery grounds.

(E) **Vehicles.** Vehicles shall not be operated in the Cemetery at a speed greater than **fifteen (15) miles per hour.** All vehicles shall park in the roadway in a manner to permit access by other vehicles. Vehicles shall remain on the roadway and shall not be parked on the grass, except when necessary for a disabled person to attend a funeral or visit a grave. The Cemetery Sexton shall be provided with notice of the necessity to park on the grass.

(F) **Walkways.** Persons visiting the Cemetery grounds shall use roadways and pathways.

(G) **Bicycles/Motorcycles.** The operation of bicycles and motorcycles within the Cemetery is prohibited except when the operation thereof is necessary to attend a funeral or visit a grave site.

(H) **Food/Beverage.** No food or beverage shall be brought into or consumed on Cemetery property.

9-1-8 **DAMAGE TO MONUMENTS/MARKERS.** The City disclaims all responsibility for loss or damage to monuments, markers, mausoleums, or any other structure placed in the Cemetery by lot owners. Any damage caused by private business such as monument or vault companies shall be the responsibility of the business.

9-1-9 **CORRECTION OF ERRORS.** The City reserves and shall have the right to correct any errors that may occur in interment, disinterment, or description, conveyance or transfer of spaces, lots or blocks.

ARTICLE II – PURCHASE OF SPACES, LOTS, BLOCKS

9-2-1 PURCHASE OF LOTS/SPACES.

(A) Persons desiring to purchase a space, lot, or block in the Cemetery shall inquire at the office of the Cemetery Sexton. Available spaces, lots, blocks showing the size and price are available at the Sexton’s office. The Sexton will issue a lot order to the purchaser who will present such order at the office of the City Clerk where payment shall be made and the deed issued. No deed will be issued until full payment has been received.

(B) All lots/spaces purchased from the City constitute rights in real property and only the names that appear on the records of the City will be recognized as owners. In the case of the death of a Cemetery lot owner and the lots are disposed of by will, a certified copy of the will shall be delivered to the City Clerk in order to correct the change in ownership. In the event the decedent dies intestate, a certified copy of proof of heirship shall be presented to the City Clerk’s office.

(C) All transfers of ownership of lots shall be in notarized form and shall be presented to the City Clerk before a replacement deed will be issued. A fee of **Twenty-Five Dollars (\$25.00)** shall be charged for any replacement and/or new deeds. **(Ord. No. 25-2021; 11-22-21)**

9-2-2 PRICES OF SPACES. Lots in the Cemetery may be purchased at the following

prices:

Eight (8) grave spaces	\$2,000.00
Four (4) grave spaces	1,000.00

Single spaces may be purchased at **Two Hundred Fifty Dollars (\$250.00)** in blocks designated by the Sexton and shown on the Cemetery plat. **(Ord. No. 25-2021; 11-22-21)**

9-2-3 INTERMENT. No burial or interment shall be permitted in the Cemetery until

the purchase price is paid in full and the deed issued.

9-2-4 GRADE OF LOTS. The grade of lots in the Cemetery shall not be substantially

changed from the grade existing at the time of the purchase of the lot.

ARTICLE III – BURIALS/INTERMENTS/ENTOMBMENTS

9-3-1 APPLICATION FOR GRAVE OPENING. Any licensed funeral director who wishes to make an interment in the Cemetery shall contact the Sexton **forty-eight (48) hours** prior to the interment. **(Ord. No. 1-2012; 01-09-12)**

9-3-2 GRAVE OPENINGS.

- (A) All grave openings and closings shall be made under the direction of the Sexton.
- (B) Graves for adults shall be not less than **five (5) feet** deep and graves for children shall not be less than **three (3) feet** deep.
- (C) The lot owner or funeral director shall designate the location of the grave on the lot to the Sexton and any change of location made after the opening of the grave shall be at the expense of the owner.
- (D) The fees and charges set forth hereinbelow are applicable to all portions of the Cemetery:

(1)	Grave Opening	
	Weekdays	\$400.00
	Saturday	500.00
	Sunday/Holiday	600.00
	Arrive after 3:00 P.M.	75.00 per hour extra
(2)	Infants	
	Weekdays	200.00
	Saturday	275.00
	Sunday/Holiday	350.00
(3)	Cremation	
	Weekdays	150.00
	Weekends/Holiday	250.00
(4)	Mausoleum	
	Weekdays	100.00
	Saturday	200.00
	Sunday/Holiday	250.00

Grave openings shall not be made on Sundays and holidays unless special arrangements have been made **forty-eight (48) hours** in advance. Holidays recognized by the City of Herrin Cemetery are: New Year’s Day, President’s Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veteran’s Day, Thanksgiving Day and Friday following, Christmas Eve Afternoon, Christmas Day and New Year’s Eve Afternoon.

(Ord. NO. 25-2021; 11-22-21)

9-3-3 INTERMENTS/ENTOMBMENTS.

- (A) The Cemetery shall be open from **9:00 A.M.** until **3:00 P.M.** for interments and entombments with the exception of Sundays and Holidays as stated hereinabove. A charge of **Seventy-Five Dollars (\$75.00)** shall be imposed for arrivals after **3:00 P.M.**
- (B) All interments or entombments shall be restricted to the owners of lots/spaces. Written permission from the lot owners shall be presented before any interments or entombment of non-owners will be permitted.
(Ord. No. 12-2014; 06-09-14)
- (C) The interment of a casket without being enclosed in an outer lining or vault of concrete, steel or fiberglass approved by the Sexton is prohibited. Wooden boxes are prohibited.
- (D) The interment/entombment of **two (2) bodies** in **one (1) grave** or receptacle shall be prohibited except in the case of mother and child or twin-children buried at the same time.

- (E) No interment/entombment shall be permitted until a burial permit has been presented to the Sexton from the Health Department as required by law.
- (F) The Sexton shall supervise and oversee all interments/entombments in the Cemetery.

9-3-4 **DISINTERMENTS.** A minimum charge of **Four Hundred Dollars (\$400.00)** shall be paid for disinterment. Additional charges may be assessed by the Sexton conditional upon the difficulty involved. Disinterment will not be made on Sundays or Holidays. **(Ord. No. 25-2021; 11-22-21)**

ARTICLE IV – MARKERS/MONUMENTS/MAUSOLEUMS

- 9-4-1** **MARKERS/MONUMENTS/MAUSOLEUMS.**
- (A) **One (1)** upright monument is allowed in the center of the lot, either a **four (4) grave** or **eight (8) grave** lot. Individual grave markers shall be placed at the head or foot of the grave.
 - (B) All grave markers shall be ground (grade) level and placed at the head of the grave, except as provided hereinabove.
 - (C) Grave marker and monument foundations are to be set below the frost line.
 - (D) All monuments and mausoleums shall have a minimum border of **five (5) inches** around the base; grave markers shall have a **four (4) inch** border around the base.
 - (E) No monument or grave marker shall be set until all costs of the lot or space are paid in full and the deed issued by the office of the City Clerk.
 - (F) Mausoleums may be constructed in the center of an **eight (8) grave** lot in Blocks 81, 82, 83 and 84. Mausoleums may be constructed on other lots designated by the Sexton. The Sexton shall also determine the number of lots necessary upon which to construct a mausoleum. No mausoleum shall be constructed in the Cemetery until the plans have been reviewed and approved by the Sexton. At the direction of the Sexton, all work on the mausoleum shall cease when a funeral or interment or entombment is being conducted in a nearby area.
 - (G) To properly maintain the integrity of the Cemetery, all markers, monuments and mausoleums shall be of quality granite, marble or natural stone.
 - (H) On single or double grave plots located in Block 84 Lots 24, 37, 84, 97, 144, 157, 204, 217 and 264, only flat markers will be allowed. No upright monuments are allowed in these areas. **(Ord. No. 5-2016; 03-28-16)**

ARTICLE V – DECORATIONS

9-5-1 DECORATIONS.

- (A) All flowers, wreaths, emblems, etc. used in funerals or placed on graves at other times will be removed by the Cemetery staff upon becoming unsightly and faded. The City assumes no responsibility for their protection or maintenance.
- (B) All mounds and structures of any type which raises the grave site above ground (grade) level are prohibited. The City will remove any mounds or structures which violate these rules and regulations.
- (C) Floral arrangements may be placed on the ground, but may not be placed so as to interfere with mowing and maintenance.
- (D) Decorations are allowed in approved vases, hanging baskets and marker/monument saddles. Shepherd staffs are permitted so long as the placement does not interfere with mowing or maintenance.
- (E) Memorial Day decorations will be removed after **ten (10) days**.
- (F) The City shall not be responsible for floral decorations, baskets or frames placed on or near the grave site.
- (G) Any decoration which violates these rules will be removed without notice.

ARTICLE VI – PLANTS/SHRUBS/TREES

9-6-1 PLANTS/SHRUBS/TREES.

- (A) Trees shall not be planted in the Cemetery without the express approval of the Cemetery as to variety and location.
- (B) There shall be no individual beds of flowers or shrubbery allowed on the grounds except by the express permission of the Sexton as to variety and location.
- (C) The City shall not be responsible for any plantings and retains the authority to remove and dispose of all plantings without notice.

(Ord. No. 52-99; 10-11-99)

CHAPTER 11 – EMPLOYEE POLICIES

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CHAPTER 11

EMPLOYEE POLICIES

ARTICLE I – PURPOSE

11-1-1 PURPOSE. The purpose of the Employee Code is to implement and maintain a uniform system of employment within 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 who are not covered by an employee union contract.

All policies and procedures contained in this Code shall go into effect **August 1, 2019**, immediately upon passage by the City Council and approved by the Mayor.

All employees shall be required to adhere to the policies and procedures as they are outlined in this Code.

Upon adoption by the City Council, this Code shall be the nonexclusive policy of the City concerning terms and/or conditions of employment.

In order to implement and carry out the express provisions and the intent of this Code, all Superintendents may pronounce policies consistent with this Code. A copy of any such policy shall be distributed to the Mayor and the City Council.

Nothing in this Code shall in any way affect the City's and Superintendent's right to develop and disseminate information concerning the operations of any department and employee's job functions, duties and job position description.

Applicable employees shall sign the Employee Notification Letter found in **Appendix "A"** of this Chapter.

ARTICLE II - GENERALLY

11-2-1 **DEFINITIONS.** The following words shall have the following meanings when used in this Code:

(A) **Employer.** The term employer, as used in this Code, means the City.

(B) **Employee.** The term employee, as used in this Code, means a person working as a volunteer or for remuneration for services rendered to the City. For purposes of this Code, an Elected Official is not an employee whose personal rights are affected by the Code.

(C) **Full-Time.** Those employees scheduled to work a minimum of **forty (40) hours** per work week on a continuous basis. Full-time employees are eligible for overtime pay and compensatory time.

(D) **Employee - Permanent Part-Time.** The term shall mean any person working over **six hundred (600) hours** per year.

(E) **Part-Time.** Those employees scheduled to work less than **forty (40) hours** per work week on a continuous basis. Part-time employees are eligible for overtime pay.

(F) **Department.** The term department, as used in this Personnel Code, shall mean the governmental unit for whom the employee is directly working for and rendering services.

(G) **Superintendent.** The term Superintendent, as mentioned in this Code, means the one individual ultimately responsible for all operations of the department.

(H) **Immediate Supervisor.** The term immediate supervisor, as used in this Code, shall mean the individual to whom the employee shall immediately report and be responsible for his work. An immediate supervisor may be the Mayor or the Superintendent.

(I) **Special Assignment, Professionals.** Professionals and those employees hired for a specific project for a limited period and may include those hired to fill in summer vacations, illness and the like. Such employees are hired with the understanding that their employment is to terminate upon completion of the project or at the end of the period. Special Assignment may be either full-time or part-time as determined by the requirements of the job. Professional employees are not entitled to overtime and compensatory time, but are entitled to other benefits.

(J) **Special Assignment, Nonprofessional.** Nonprofessional employees are like the special assignment, professional employees except that nonprofessional are entitled to overtime and compensatory time, but not to benefits.

(K) **Volunteers.** Those individuals who accept on an unpaid basis various work assignments for any department. These individuals receive no wages or benefits.

ARTICLE III – PRE-EMPLOYMENT VERIFICATION POLICY

11-3-1 PRE-EMPLOYMENT VERIFICATION POLICY. This policy is intended to serve as a guide relating to the hiring of permanent full and part-time employees.

11-3-2 GENERAL POLICY. The City has elected to institute a pre-employment verification process. Other information may also be gathered as part of the pre-employment verification process. Each employee is subject to a **six (6) month** probationary period and results of the pre-employment verification process may impact permanent employment. Results of this process will remain completely confidential.

11-3-3 REQUIRED VERIFICATIONS.

(A) **Identity and Criminal Record Check.** The Mayor or a person designated by the Mayor shall verify the personal identity of each employee with the Social Security Administration to ensure valid social security numbers. Criminal record checks shall also be reviewed by the corporate authorities.

(B) **Motor Vehicle.** A motor vehicle check is required for all employees who driving during working hours or drive municipal vehicles. This check includes the verification that the employee has a valid driver’s license and other accident and conviction history. Motor vehicle information shall be reviewed annually as long as the employee’s job duties include operating a motor vehicle.

11-3-4 OPTIONAL VERIFICATIONS.

(A) **Employment.** The Mayor or a person designated by the Mayor shall verify past employment at the request of the City Council. All information on the application MUST be LEGIBLE. The following fields are required: Employer name, address, city, state and Start Date.

(B) **Licenses, Certifications, Degrees.**

(1) **Education Verification.** To verify education, the following fields shall be completed: College name, address, city and state and degree received.

(2) **Transcript.** If needed, applicant must provide directly from the institution.

(C) **Certification Verification/Professional License.** If needed, applicant shall provide a copy of a professional license so it may be verified.

(D) **Credit Report.** A credit report shall be required for all employees involved in accounting or cashiering functions. Other employment positions susceptible to collusion or fraudulent activities may also be considered as a basis for a credit report. These positions requiring a credit report shall be documented and shall be filed with the City Clerk. A credit report may also be requested if an employee changes their job duties to a position that requires a credit check.

A credit report request requires the approval of the employee or potential employee. *The Request, Consent and Authorization for Release of Personal Information* and the *Disclosure* document (all three) must include their signature.

If available, please submit a job description to accompany the application and verification request.

ARTICLE IV - HIRING POLICY

11-4-1 REQUIREMENTS. Employment is based on each applicant's qualifications as compared with the requirements of the available position. Consideration is given to ability, experience, education, training and character.

No consideration shall be given to the applicant's political party affiliation or support in regard to any decisions on hiring, promotion, transfer, or recall.

11-4-2 RESIDENCY REQUIREMENTS. All employees of the City shall reside within the corporate limits. All applicants for employment with the City at the time of their initial interview with City officials, shall be notified of this City policy. All applicants shall become a resident as set forth therein within **one hundred eighty (180) days** of accepting employment with the City and shall remain on probationary status with the City until they have satisfied this requirement or condition of employment. Failure to satisfy this condition of employment shall be grounds for automatic dismissal from employment with the City, unless waived by the City Council.

11-4-3 APPLICATION FORMS. Applications for positions with the City shall be filed on forms furnished by the City Clerk. All successful applicants shall produce an original social security card. The Superintendent may require certificates of competency, licenses, medical examinations, post-offer medical examination, drug and alcohol tests, background investigations, references, police checks, motor vehicle reports/driving history, oral interviews, or other evidence of special qualifications. The Superintendent may reject applications of persons who are found to lack any of the requirements established for the position. The Mayor with the advice and consent of the City Council shall appoint all employees. In considering applications of various individuals, length of service shall be used as a factor in the selection of applicants, but will not be considered the sole or even the predominant factor. No employee shall be hired and placed on the payroll and receive fringe benefits until all employment related forms, including but not limited to the employment application form, are filled out and forwarded to the City Clerk.

11-4-4 PROMOTIONS. Employees are encouraged to apply for job openings in higher classifications and will be considered for promotion for job openings upon written application. All full-time employees may be considered for promotions. Probationary employees may apply, but do not have to be considered, depending upon the discretion of the Superintendent.

When an employee is promoted, the employee will be placed on probation. At the end of the probationary period, the employee's performance will be formally evaluated and one of the following actions shall be taken by the City or Superintendent based upon employee's performance and conduct:

(A) The employee may assume the new position having successfully completed the probationary period.

(B) The probationary period may be extended.

(C) The employee may be demoted to a position commensurate with the employee's ability, if the lower position is available.

11-4-5 PROBATIONARY PERIOD. All full-time employees of the City shall be probationary employees for **six (6) months** commencing their first working day as full-time employees. The probationary period may be extended by the City Council. During said probation period, such employees shall not be entitled to any sick or personal leave with pay. After the successful completion of the probationary period, said employees will be entitled to **five (5) sick** and **two (2) personal days**.

If an employee of the City changes job classifications then he or she shall be required to commence a subsequent **six (6) month** probationary period to commence the **first (1st) day** after all required off-site training has been completed. If off-site training is required, then the employee shall

successfully complete the off-site training before the **six (6) month** probationary period shall commence.

ARTICLE V - COMPENSATION

11-5-1 **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.

11-5-2 **COMPENSATION.** The basic rate of pay shall be set forth by the City Council.

11-5-3 **OVERTIME.** Overtime at **one and one-half (1 1/2) times** the regular rate of pay is available to employees working in excess of a **forty (40) hour** work period.

11-5-4 **SALARY INCREASES.** Employees are eligible for a salary increase after the completion of the probationary period.

ARTICLE VI - HOURS OF WORK

11-6-1 **WORK WEEK.** The following shall be the parameters for the work week:

(A) **Street Department.** The work week for the employees of the Street Department shall be from **8:00 A.M. to 5:00 P.M.** No person employed by the Street Department shall work for more than **sixteen (16) hours** in any **twenty-four (24) hour** period.

(B) **Water and Sewer Department.** The work week for the employees of the Water Department shall be from **8:00 A.M. to 5:00 P.M.**

(C) **Continuous Operation.** Whenever necessary, each Superintendent shall provide for the continuous operation of the Department.

(D) No work shall be performed at home, without prior approval of the Superintendent.

(E) Prior approval of immediate supervisors is necessary for any employee to work early or stay late to do work related activity.

11-6-2 **LUNCH.** The following shall apply for lunches:

Each Superintendent shall establish the lunch schedule for their own department.

Travel time to and from any eating place is included in the lunch period. The lunch break cannot be used for compensatory time or as a substitute for tardiness. Lunch periods may not be taken at the end of the day or in conjunction with a rest period unless the employee has obtained written approval from his or her immediate supervisor.

11-6-3 **TIME AND ATTENDANCE.** Each Superintendent shall maintain accurate daily attendance records. An employee shall be at their places of work in accordance with the attendance rules. Tardiness or other abuse of regular attendance will not be tolerated. The attendance records will indicate information in order to properly pay employees for actual work performed. An employee shall have the right to review his attendance record on file in the department.

No one will be permitted to sign in or out for another employee.

An employee shall, whenever possible, provide advance notice of absence from work.

When City offices and buildings are open, but inclement weather prevents employees from reaching the buildings, employees may account for such absences by using accrued time, such as vacation and compensatory time earned, or the employee may elect to be docked for time off. Sick leave may not be used to cover absence due to inclement weather.

11-6-4 **HOLIDAY PAY.** All full-time and salaried exempt employees shall have time off with full salary payment on the day designated as a holiday by the City Council.

If a Holiday falls on an employee's regularly scheduled day off, the employee shall be entitled to an additional day off. Employees cannot use sick leave in lieu of scheduled holidays.

All full-time employees covered by this Code, who are required to work on an official Holiday, shall receive a rate of **one and one-half (1 1/2) times** the regular rate of pay for the hours work on such holiday. The Superintendent shall approve the use of time with pay.

The term "last schedule work day" means the employee's full day of work.

To be eligible for holiday pay, the employee must work both the day before and the day after the holiday. The exception allows for absences for good cause that are approved by the Superintendent or Mayor. Samples of this exception include the holiday, the Superintendent or Mayor approving for good cause hospitalization the day before or the day after the holiday, and a Superintendent/Mayor approving for good cause an employee calling in sick the day before or the day after a holiday, and placing the call at the last minute. In each of these examples, the Superintendent or Mayor shall exercise judgment as to whether the sickness or hospitalization is for "good cause".

ARTICLE VII - LEAVES

11-7-1 **VACATION PAY SCHEDULE.** The following shall be the vacation benefits for full-time employees:

One (1) week vacation for employee after **one (1) year** of continuous work.

Two (2) weeks vacation for employee for service of **two (2) years** and up to **six (6) years** of service.

Three (3) weeks' vacation after employee has completed **six (6) years** or more of service.

Four (4) weeks' vacation after employee has completed **twenty (20) years** or more of service.

Earned vacations must be taken during each calendar year, or otherwise with approval of the City Council.

11-7-2 **PAID HOLIDAYS.**

(A) New Year's Day plus previous day.

(B) Martin Luther King Day.

(C) President's Day.

(D) Memorial Day.

(E) Independence Day.

(F) Labor Day.

(G) Thanksgiving Day plus following day.

(H) Veteran's Day.

(I) Christmas Day plus previous day.

(J) If a paid holiday falls on a full-time employee's day off, that employee will be paid **eight (8) hours** straight time in the paid holiday category.

(K) If a full-time employee works on a paid holiday those hours worked, which are scheduled, or unscheduled, will be paid at **time and one-half (1 1/2)**. The holiday will be paid at **eight (8) hours** straight time.

(L) If a paid holiday falls on a shift of a full-time employee of the Police Department, that employee will be allowed to take a vacation day on that holiday. The employee shall be paid **eight (8) hours** straight time for the vacation day and **eight (8) hours** straight time for the paid holiday.

(M) If a full-time employee must be called back to work, for an emergency situation, while on vacation or while taking a personal day, the vacation or personal day shall cease. That employee will be paid for the number of hours worked at their normal rate of pay. The employee's remaining vacation or personal time will be rescheduled.

11-7-3 **BEREAVEMENT PAY.** Each employee will be allowed **three (3) days** off with pay when a death occurs to a member of their immediate family. These members include mother, father, sister, brother, wife, children, or stepchildren, stepfather, stepmother, stepbrother, or stepsister, mother-in-law or father-in-law. These days must be workdays and they end at the day of the funeral, unless other arrangements are approved in advance.

11-7-4 **PERSONAL LEAVE.** Each employee will be allowed to take off **three (3) days** each calendar year for personal reasons, and the employee will be paid his regular pay for these days. However, personal days must be taken each year or forfeited.

11-7-5 **SICK LEAVE.**

(A) Each employee will be entitled to **ten (10) sick days** per calendar year.

(B) After **three (3) consecutive days** off due to illness, a doctor's verification shall be obtained and provided to the City in order for the employee to be credited for the sick days utilized.

(C) Each employee will be entitled to unlimited accumulated sick days.

Each employee is entitled to up to **three (3) weeks (fifteen (15) days)** recuperation leave with pay for confinement under doctor's care, in the hospital or at home, following release from the hospital under doctor's care. This benefit can be used only after all sick days, vacation and personal days an employee is otherwise entitled to have been used. Request for recuperation leave must be supported by a doctor's written permission or authorization to receive approval. After this benefit is used there will be no more paid days off excluding paid holidays.

(D) **Notification.** The Superintendent shall establish notification requirements for taking sick leave.

The employee shall state the nature of the illness or injury, location of confinement and the telephone number where the employee can be reached. The employee must also state whether the absence is claimed to be from a previous injury sustained while on duty. Supervisors are to be kept informed daily, whenever possible, of the employee's condition. Upon return to work, employees will inform their supervisor or Superintendent as to the cause of illness and indicate whether a continuing impairment might have occurred.

(E) **Resumption of Work.** In order to continue active work assignments or to resume work after an illness or injury or disability, employees shall provide the department with a written physician's statement releasing employee to assume activities within their position responsibility if:

- (1) Upon returning to work after prolonged illness for **five (5) consecutive days** or more;
- (2) Upon returning to work from an extended leave of absence;
- (3) After the employee has a potentially disabling illness, injury or condition;
or
- (4) Upon returning to work after a diagnosed communicable disease.

11-7-6 ILLNESS OR INJURY AT WORK. Any employee who is ill or injured on the job shall immediately notify the Superintendent who may require the employee to be transported to a hospital for examination by a physician or surgeon.

For employees on an **eight (8) hour** work schedule, if an employee becomes ill while at work after the first **two (2) hours** of work, the employee shall lose **one-half (1/2) day** of accumulated sick time. For employees on a **twelve (12) hour** work schedule, if an employee becomes ill at work after the first **three (3) hours** of work, the employee shall lose **one-half (1/2) day** of accumulated sick time.

11-7-7 MATERNITY AND REASONABLE ACCOMMODATION. Pregnancy shall be considered the same as any short-term disability, and request for pregnancy leave shall be made through the disability leave clause. Request for parental leave following child birth shall be made through the Leave of Absence clause, **Section 11-7-8(G), Family and Medical Leave Act.**

If you are pregnant, recovering from childbirth, or have a condition related to pregnancy, you have the right to ask for a reasonable accommodation. This includes bathroom breaks, assistance with heavy lifting, a private space for expressing milk, or time off to recover from your pregnancy. For more information regarding your rights on Pregnancy in the Workplace, download the Illinois Department of Human Rights fact sheet at www.illinois.gov/dhr, or refer to the posted "Pregnancy Rights Notice."

11-7-8 LEAVE OF ABSENCE. No employee on leave of absence may earn vacation, or sick leave, except when the leave was for the purpose of accepting a temporary work assignment in another office.

All types of leave of absence do not earn vacations or sick leave while the employee is on leave of absence.

While the employee is on leave of absence, the length of service still continues to accumulate except for special leave situations under this Section (1) Special Leave, and for (7) Family and Medical Leave Act situations. Length of service is specifically prohibited from accumulating on Special Leave cases and on Family and Medical Leave Act situations. The prohibition on length of service accumulation is not contained in any other type of leave of absence situation. Therefore, the Code should be construed to allow accumulation of length of services while on leave of absence other than "special leave" and the "Family and Medical Leave Act".

Employee shall be granted an excused leave of absence for the following:

(A) **Special Leave.** All full-time and salary exempt employees who have completed **one (1) full year** of continuous service may request a special leave. Special leave will only be granted for personal reasons, and must be approved by employee's Superintendent. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs. Length of service or benefits shall not accrue or accumulate during a special leave. A person either hired or promoted to fill the position vacated by the person on leave shall be considered in that position temporarily and shall relinquish it upon the employee's return.

If a special leave is approved by the City Council, coverage under Illinois Municipal Retirement Fund may be maintained pursuant to IMRF rules and regulations. A request form for special leave is found in **Appendix "E"** at the conclusion of this Chapter.

(B) **Military.** Any full-time, salaried exempt, or part-time employee who is a member of a Reserve component of the Armed Services, the Illinois National Guard or the Illinois Naval Militia, shall be allowed annual leave with pay for **fifteen (15) days** and the City shall pay the difference in salary and any additions or extensions thereof without pay as may be necessary for the employees to fulfill the military reserve obligation. Such leaves will be granted without loss of length of service or other accrued benefits.

In case of an emergency call up (or order to state active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of length of service or other accrued benefits.

Military earnings during the military reserve obligation or for the emergency call shall be submitted and assigned to the City, and the City shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earning for the period, the City Council shall return the difference to the employee.

To be eligible for military reserve leave or emergency call up pay, the employee shall provide the City with a certificate from the commanding officer of the employee's unit that the leave taken was for either such purpose.

Full-time employees entering into military service as a result of voluntary enlistment, induction into the service by draft, or conscription will be afforded all of the privileges provided by the **Illinois Compiled Statutes, Chapter 330, Section 60/1 et seq.**

(C) **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 shall be turned over to the City Treasurer. 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. The employee may choose to use a vacation day, if the witness activity is not work-related.

(E) **City Disability Leave.** To be eligible for City Disability Leave, the employee must submit to the City Council a medical opinion that the employee cannot work in his normal job position, and a medical opinion that the employee may possibly be able to return to work within the next **six (6) months**. Employees are not eligible for disability benefits until they have been employed at least **one (1) year**. Employees may be required to use their accrued sick or vacation time to continue regular wages.

Employees shall submit a letter requesting disability leave to their Superintendent within a reasonable amount of time before disability leave is taken. Upon return to work, employees shall submit a release statement from their physician to the Superintendent. If the Superintendent has reason to believe that the employee is unable to perform the normal duties or the employee is able to perform duties and is still absent, they may seek and rely upon the decision of an impartial physician. The City Council shall select a physician who is not a City employee to act as an impartial physician.

(F) **Educational Leave.** The City Council may grant an employee an educational leave of absence for the purpose of engaging in a training course. No educational leave may be granted unless in the judgment of the City Council the training course would benefit the City by improving the employee's qualifications to perform the duties of the employee's position or by qualifying the employee for advancement in rank or grade to another position in the City service. Employee shall receive his regular pay during an education leave of absence for training courses when so authorized by the City Council.

Employees may request an educational leave without pay to seek further professional training in specialty fields. Such leave may be up to **ten (10) months** in duration and requires the approval of the City Council. An employee on education leave without pay does not accrue vacation or sick leave credit for the period of leave. When ready to return to work, the employee will be offered the first available full-time position at the same job level the employee held prior to departing on educational leave without pay.

(G) **Family and Medical Leave Act.** An employee is eligible for a leave of absence through the Family and Medical Leave Act of 1993. In order to be eligible for leave, an employee must have worked for the employer at least **twelve (12) months** and must have worked at least **one thousand two hundred fifty (1,250) hours** over the previous **twelve (12) months** prior to the leave. Eligible female and male employees are allowed up to **twelve (12) weeks** of leave per **twelve (12) month period** following the birth of a child, the placement of a child for adoption or foster care, or the serious health condition of the employee or an immediate family member (defined for purposes of this Family and Medical Leave Act situation as including the employee's child, spouse or parent). The leave for birth or placement must take place within **twelve (12) months** of the birth or placement of the child.

The employee's leave shall be unpaid. The employee may, upon approval of the City Council, use accumulated sick leave and/or vacation leave. During the leave, the City shall continue to provide coverage under its group health plan. Following return upon leave, the employee shall be returned to a position with equivalent pay, benefits and other terms and conditions of employment.

In order to utilize leave of absence pursuant to the Family Medical Leave Act, the employee should give **thirty (30) day** notice.

For leave based upon serious health conditions, the employer may require certification from the employee's health care provider for leave. Employer reserves the right to require a second medical opinion at the employee's own expense. The request form is found in **Appendix "D"** at the conclusion of this Chapter.

(H) **Expiration of Leave.** When an employee returns from a leave of **six (6) months** or less, the Superintendent shall return the employee to the same or similar position in the same class in which the employee was incumbent prior to commencement of such leave.

An employee's same or similar position will not be protected for reductions in force or where the position has been eliminated. Employees are subject to termination if they are absent from work for more than **six (6) months**. No employee may be absent without permission of the supervisor to which assigned. In the absence of extenuating circumstances, an employee who is absent from work for any reason and fails to notify his or her supervisor within **two (2) working days** will be considered to have resigned.

No employee on leave of absence may earn vacation, or sick leave, except when the leave was for the purpose of accepting a temporary working assignment in another office.

ARTICLE VIII - MISCELLANEOUS BENEFITS

11-8-1 INSURANCE. Insurance will be provided on the following basis:

(A) **Life, Medical and Dental Care Insurance.** All full-time employees are covered by a medical and dental plan funded by the City.

All full-time employees are covered by life insurance and accidental death and dismemberment policy. A manual is provided to employees at the time of hiring which further explains the policy. The manual is obtained from the City Clerk's Office.

The City Clerk's Office shall be notified of a divorce or legal separation of the covered employee, and further must be notified when a child is no longer eligible as a covered dependent of the employee.

(B) **Legal Defense and Liability Insurance.** In any claim or action instituted against an employee, or former employee, where such claim or action arises out of any act or omission, made in good faith, occurring within the scope of employment of the employee, or former employee, the City shall, upon written request of the employee or former employee, appear and defend the employee or former employee, against any such claim or action, including the process of appeal. The City Attorney shall appear for and defend the employee. This Section excludes disciplinary proceedings or criminal proceedings.

(C) **Other Insurance Types.** All City employees are additionally covered by the following:

- (1) Social Security legislation and salary deductions shall be made for Social Security purposes in accordance with the law.
- (2) Workers' Compensation Act, **(820 ILCS Sec. 305/1 et seq.)** Any work-related injury or illness must be reported to the employee's supervisor within **twenty-four (24) hours** of the injury or onset of illness.
- (3) Unemployment Insurance, the costs of which shall be paid by the City.

11-8-2 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 City Council.

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 Superintendent may require that only **one (1) person** will be eligible to receive reimbursement for travel. The rate of reimbursement shall be established by the City Council.

11-8-3 DEATH BENEFITS. Each employee shall fill out a designation of beneficiary form. Upon the death of an employee, the designated beneficiary shall be entitled to receive from the appropriation for personal services theretofore available for payment of the employee's compensation, such sums for any accrued vacation period to which the employee was entitled to at the time of death. Such payment shall be computed by multiplying the employee's daily rate of pay by the number of days of accrued vacation at the time of death.

Upon the death of an employee, the estate shall receive any unpaid compensation, accrued overtime, or other benefits the employee would have been allowed had the employee survived.

Family members of deceased employees should contact the City Clerk's Office for explanation of any further benefits the family members or the estate of the deceased employee may be entitled to.

11-8-4 TRAVEL. Staff vehicles are to be used only for activities directly related to the conduct of business. Under no circumstances are the vehicles to be used for personal activities. Reimbursement is provided for the use of employee's private vehicles for official business at the rate designated by the State of Illinois for actual mileage traveled. Private vehicles will only be used when Department vehicles are not available and prior approval is given by the Mayor. Use of staff vehicles are restricted to employees who have a valid drivers' license with current liability insurance. Employees are not permitted to use City vehicles without the knowledge of their supervisor or Superintendent. All employees using staff or private vehicles must record mileage on the expense log along with the destination and purpose of the trip. The log is to be returned with the vehicle's keys. Expense claims for private vehicle usage will be honored only if the listed trip is initialed by the immediate supervisor. Any malfunctions or damages must be reported to the immediate supervisor. Travel in any vehicle will always be by the most direct route unless otherwise approved by the Mayor or Superintendent.

If the most economical means of travel available is by some type of transportation other than an automobile, the mode selected shall be approved by the employee's supervisor and Mayor before departure. Travel by either airplane or train shall be by coach class.

Reimbursements for first class accommodations may be permitted only when coach class is not available.

Employees who take staff vehicles home are not considered on official business during the commute unless they must regularly perform duties during that commute.

11-8-5 REIMBURSEMENT OF OTHER EXPENSES. An employee shall be allowed reimbursement for the actual cost of meals in accordance with these rules but not to exceed the rates indicated in the reimbursement schedule. It is not necessary to submit receipts when receiving per diem. It is necessary to submit receipts when receiving reimbursement for individual meals.

For breakfast, an employee only will receive reimbursement if the employee is on travel status and leaves headquarters or residence at or before **7:00 A.M.**

For lunch, travel within **fifty (50) miles** of the City is not reimbursed.

For dinner, an employee must be on travel status and arrive back at the headquarters or residence at or after **8:00 P.M.** For employees commencing travel after the close of business but before **6:00 P.M.**, reimbursement for dinner is allowed.

Advance per diem checks must be requested a minimum of **three (3) days** in advance. A per diem allowance is available only when overnight lodging is obtained or when the travel assignment is **eighteen (18) hours** or more. A per diem allowance provided in the reimbursement schedule represents the maximum daily amount allowable and is given in lieu of a meal allowance. Receipts must be submitted to support allowances other than meals when on per diem.

(A) **Reimbursement Schedule.**

Automobile Mileage - State of Illinois rate (Proof of automobile liability insurance is required to obtain automobile mileage reimbursement).

Per diem allowance/IRS per diem rate for various cities, as published in the GSA Publication (with receipts, per them allowance is **\$40.00**).

Breakfast	-	20% of IRS published rate
Lunch	-	30% of IRS published rate
Dinner	-	50% of IRS published rate

If a conference fee includes a meal, the per diem allowance shall be reduced by the amount of the particular meal included in the reimbursement schedule.

In order to be reimbursed for business expenses, the employee shall submit an expense log. This log shall be signed by the employee submitting the expense claim and approved by the Mayor or Finance Committee. An expense log should be submitted to the accounts payable clerk and will be paid on the appropriate disbursement date. Liable expenses include but are not limited to meals, conference fees,

hotel and motel accommodations, taxi fares, parking and toll fees. Personal expenses, such as personal phone calls, in-room movies and bars, or other entertainment will not be reimbursed. Receipts must accompany travel requests for reimbursement.

Non-reimbursable expenses include, but are not limited to, alcoholic beverages, personal entertainment, valet service, magazines and newspapers.

Gratuities shall be reimbursed to a maximum of **fifteen percent (15%)** except for those departments, programs, or projects which are prohibited by Federal or State rules or regulations from making reimbursements for gratuities.

Employees traveling overnight shall be reimbursed for **one (1) phone call** to their home phone number with a **Five Dollar (\$5.00)** limit for the call. When a delay occurs in traveling, then the employee shall be reimbursed for **one (1) additional phone call** to their home phone with a **Five Dollar (\$5.00)** limit for reimbursement.

11-8-6 **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.

ARTICLE IX - REGULATIONS AND RESTRICTIONS

DIVISION I - GENERAL

11-9-1 ACCIDENTS/INJURIES. Anytime an employee is involved in an automobile accident with a City automobile or in a personal automobile while on City business, the employee shall notify his or her Superintendent immediately with all pertinent information including whether personal injury is involved and whether any traffic citations were issued. All Superintendents shall within **twenty-four (24) hours** notify the City Attorney if any traffic citations were issued to a City employee and shall provide the City Attorney with a copy of the citations. An employee is obligated to cooperate with the City and any of the City's legal representatives regarding the accident and any citations that may have been issued.

11-9-2 APPEARANCE. Neatness and good taste in dress, as well as care toward personal hygiene, are expected of all employees. For safety and hygienic purposes, employees may be required to comply with any appropriate dress code that is set forth by the Superintendent or City Council during the performance of their duties.

Employees may be requested to change inappropriate dress, and work lost while doing so will not be compensated by the department. Employees may be evaluated on their dress and appearance. The Superintendent is the only individual of each department who may make exceptions to the dress code.

11-9-3 USE OF DEPARTMENT PROPERTY. All department property and equipment entrusted to any employee will be used in accordance with the property's prescribed function. All damage through recklessness, gross negligence, intentional act, deliberate misuse, or theft shall be replaced and paid for by the employee committing the violation. Such replacement of property by the employee shall not be considered the exclusive remedy against the employee, and the employee may still be subject to discipline. All department property, personal lockers, and personal offices are subject to search and seizure. All department property shall be inspected by the employee's immediate supervisor prior to issuance of the property.

No department property shall be used for private or unauthorized purposes. All employees are required to return all department property or equipment in their possession upon separation, promotion, and/or transfer.

11-9-4 TELEPHONE USAGE. Good telephone habits are an indication that the department is interested in serving the public. At all times, answer promptly and courteously. Identify yourself by name and section, be friendly and helpful. Write time and date of any message from the caller, transfer calls tactfully, give accurate information, do not keep the caller waiting and hang up carefully.

All personal telephone usage, including cellular telephones, whether incoming or outgoing, shall be kept to a minimum. Employees shall be charged and accountable for such usage. Employees shall also be responsible for the care of the cellular units to avoid misplacement and theft. All pagers assigned to the employees shall remain "on" during working hours.

Employees shall keep incoming and outgoing personal calls to a minimum.
(See Division II for computer usage.)

11-9-5 CORRESPONDENCE AND COMMUNICATIONS. No employee shall use their official position, engage in official transactions or business to harass any individual or to secure a benefit

for himself or other individuals. Courtesy should be given in all communications and correspondence, and all employees should refrain from unnecessarily criticizing any individuals or agencies concerning official transactions or business.

11-9-6 **SMOKING.** Smoking by City employees shall not be allowed during working hours.

11-9-7 **PHOTO I.D.'S.** The City Council may issue a photo I.D. card for employees. All employees who are issued a shield badge and/or photo I.D. are required to be in possession of the badge and/or photo I.D. on and off duty. Employees shall not use their shield or identification card for personal business or personal gain. If a shield or identification card is lost or stolen, it must be reported in writing to the Superintendent without delay.

11-9-8 **SPEECH AND DISSEMINATION OF INFORMATION.** Employees are encouraged to appear before civic organizations, fraternal organizations or any other group in an official capacity. Employees shall notify the Superintendent prior to accepting such speaking engagements.

Employees are cautioned against making statements or giving impressions regarding official agency policy or position without prior expressed authority being granted. Normally, the City Council has the sole right to adopt and interpret the policies of the organization. If in doubt, it is always preferable to consult the Superintendent before making any statements that might possibly be misinterpreted or misconstrued by the general public or press.

The Superintendent shall make all news releases concerning the department.

The City shall comply with the **Illinois Freedom of Information Act**, and employees are allowed to disseminate information pursuant to the Act. However, employees are not allowed to disclose any information that is exempted by **Illinois Freedom of Information Act** or prevented from disclosure by any other state statutes. Employees who receive Freedom of Information Act requests shall notify the Mayor, who may consult with the Municipal Attorney to ensure timely compliance. **(See Chapter 15 - Freedom of Information)**

11-9-9 **RELATIONS WITH CREDITORS.** The City shall charge employees any authorized costs when making wage deduction pursuant to court order or State or Federal statutes.

11-9-10 **POSSESSION OF FIRE ARMS.** Unless authorized by the Chief of Police, and unless authorized by the appropriate Superintendent, no employee of any department has legal authority to carry weapons while in the performance of their official duties.

11-9-11 **ETHICS.** Employees shall 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 Superintendent or Mayor 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 City. **(See Chapter 22 - Ethics Code)**

11-9-12 **OTHER EMPLOYMENT.** Employees are prohibited from having conflicting employment while having a full-time position. An employee may not be paid by another employer for the same **forty (40) hour** period employee is being paid by the department. If a full-time employee performs outside services or employment, such services or employment shall be reported to the Superintendent for prior approval, and advance notification shall be given by the employee to the City Clerk.

Fees earned by an employee for serving as an instructor for a class during other than normal working hours which is not sponsored by the City in another City agency, shall be dealt with as follows:

- (1) No overtime shall be earned and the fee retained, or;
- (2) Overtime shall be earned and the fee surrendered to the City Clerk and recorded as miscellaneous income.

Employees who are injured while engaging in other employment shall notify the Superintendent and the City Clerk.

11-9-13 **PHYSICAL EXAMINATIONS.** Each applicant for employment may be required to successfully complete a post-offer physical examination by a doctor of the employer's choice, including a drug screen upon the request of the City. At any time, employees may be required to submit to a physical examination. As a condition of their employment, the employees of the department shall authorize the release of medical testing information including drug screens to the City for departmental use only.

Each employee authorized to carry and use a gun while at work for the City, and all employees engaging in heavy manual labor as their principal form of job activity for the City may be required to submit to an annual physical exam and/or drug screens by a doctor of the employer's choice.

Drug screens can be conducted on a random basis for any security personnel employed by the City, except those under police personnel contract, for any employee authorized to carry and use a gun while performing work related activities for the City and for any employee that is required to hold other than a Class A driver's license for work related purposes. For all other employees, drug screens shall be conducted upon probable cause.

The term "drug screens", as used throughout and disclose to the Superintendent, any drug or alcohol problem that the employee may currently have.

11-9-14 **REIMBURSEMENT OF COST OF TRAINING.** If an employee leaves the department's employment before the completion of **three (3) years** from the initial date of employment, that employee will be liable for all costs incurred in the employee's selection, background investigation, equipment issue and training, prorated over a **three (3) year** period. Incurred training costs will be deducted from any remaining paychecks.

11-9-15 **PRESCRIPTION DRUG USE.** Any employee who is taking prescription or over-the-counter drugs or medication which may impact on abilities to perform work shall report the use of the drugs or medications to the immediate supervisor, along with the name and address of any medical doctors prescribing the medication.

11-9-16 - 11-9-19 **RESERVED.**

DIVISION II - DRUG FREE WORKPLACE POLICY

11-9-20 **DRUG FREE WORKPLACE.** All employees, as a condition of employment, shall comply with the City's Drug Free Workplace Policy that is found in this Division.

11-9-21 **PURPOSE OF POLICY.** Drug abuse affects all aspects of our lives - it threatens the workplace as well as the home, the school, and the community. The City must take a firm stance against illicit drug use. The use of drugs, which term for the purposes of this policy shall include alcohol in the workplace, is unacceptable since it can adversely affect health, safety, and productivity, as well as public confidence and trust. When drug use and/or involvement interferes with an employee's efficient and safe performance of work responsibilities and/or reduces the employee's dependability and accountability, it creates a problem for the whole organization.

Drug abuse inflicts notable human expense. Personal tragedies, feelings of anxiety and depression, and diminishing coping skills are reflected on an individual level. Dysfunctional and strained relationships mark the heavy burden felt by the families of the drug and alcohol abuser.

The cost of drug abuse, both on a personal and organizational level, is unacceptable. The rising incidence in substance abuse makes it imperative that the City combat this issue by implementing a zero tolerance policy of drug use in the workplace.

11-9-22 **DRUG FREE WORKPLACE STATEMENT.** The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the workplace. Controlled substance means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act. Disciplinary action, up to and including dismissal can be taken against employees for drug violations.

All employees will, as a condition of employment:

(A) Agree not to manufacture, distribute, dispense, or possess controlled substances or alcohol in the workplace.

(B) Notify their respective Superintendent of any arrest or conviction of any local, state or federal criminal drug statute no later than **twenty-four (24) hours** after such arrest or conviction.

(C) Abide by the conditions set forth in this statement.

11-9-23 **VIOLATIONS.**

(A) Employees are subject to discipline, including discharge for violation of the above policy.

(B) Require the satisfactory participation and completion of a State licensed drug rehabilitation program, as sanctioned by the employer.

(C) The City shall notify the appropriate State Agency from which grant funds were received of the employee's conviction within **ten (10) days** after receiving notice from an employee of any criminal drug statute conviction for a violation in the workplace.

11-9-24 **EMPLOYEE ASSISTANCE.** A referral network to assist those who may be experiencing problems with drugs and/or alcohol will be established for all City employees.

11-9-25 **STATUS OF EMPLOYMENT; REHAB COSTS.** There is no requirement by the employer to keep an employee on active employment status who is receiving rehabilitative treatment if it is determined that the employee's current use of drugs prevents the individual from performing work related duties or whose continuance on active status could constitute a threat to the property and/or

safety of others. **The employee shall pay for all costs of rehabilitation.** The employee may use accumulated paid leave, and take unpaid leave pending treatment, at the discretion of the employer, and so long as the employee advised the Superintendent of use or abuse of drugs prior to occurrence of reasonable suspicion.

11-9-26 - 11-9-29 RESERVED.

DIVISION III – COMPUTER USAGE POLICY

11-9-30 COMPUTER USAGE PROCEDURE. Routinely all personnel will have access to a computer. The following procedures must be adhered to:

(A) All employees will only use the "Log-in ID", "User ID" and "Passwords" assigned to them, i.e. use of a supervisor "User ID" and "Passwords" by a line officer is prohibited unless authorized by the Administration. Use is a privilege, not a right, which may be suspended or terminated by Mayor when, in his/her judgment, this policy has been violated by the user.

No employee is authorized to share their "password" with anyone except the Supervisor assigned to overlook all passwords in the department.

(B) It is not permissible to use City computers and equipment in any inappropriate manner, such as to disgrace the department or a fellow employee. It is forbidden to use profanity or vulgar language on any department computer equipment.

(C) Only floppy disks which are requisitioned from the storerooms and the data processing department are authorized to be used in department computers. No outside floppy disks will be authorized to be used except with permission from Administration.

(D) No employee shall be allowed to do personal work at his or her City computer. This is with or without the use of any floppy disk.

(E) No employee shall be allowed to copy any City or department document to a floppy disk and use it outside the office without permission from Administration.

(F) No employee shall be allowed to have any unauthorized programs, utilities, games or files on their City PC.

(G) Any variance from the above procedures shall have prior Administration permission.

Information and data maintained in the electronic media on City computer system are protected by the same laws and policies, and are subject to the same limitations, as information and communications in other media. Said information and data are the property of the City.

Before storing or sending confidential or personal information, users should understand that most materials on City system are, by definition, public records. As such, they are subject to laws and policies that may compel the City to disclose them. The privacy of the materials kept in electronic data storage and electronic mail is neither a right nor is it guaranteed.

11-9-31 - 11-9-34 RESERVED.

DIVISION IV – ELECTRONIC COMMUNICATIONS

11-9-35 POLICY; INTRODUCTION/PURPOSE. This policy is intended to serve as a guide on the proper use of the municipal electronic communication systems. This policy covers the use of all forms of electronic communications, including but not limited to e-mail, voice mail, fax machines, external bulletin boards, Intranet and the Internet, and applies to all users. Users are expected to read, understand and follow the provisions of this policy and will be held responsible for knowing its contents. Use of the electronic communication system constitutes acceptance of this policy and its requirements.

The City provides electronic mail (e-mail) and/or Internet access to Elected Officials and Staff who need it to perform the functions of their position. The purpose of this document is to communicate to all personnel their responsibility for acceptable use of the Internet and e-mail (whether sent over the Internet or over the City’s own network). Policies and procedures are also outlined for the disclosure and monitoring of the contents of e-mail messages stored in the system when required.

The City’s objectives for Employees to use e-mail and/or the Internet include:

- (A) exchanging information more efficiently than by telephone or written memorandum;
- (B) gathering information and performing research for departments; and
- (C) reducing the handling of paper copy.

11-9-36 POLICY DEFINITIONS. As used in this Policy, the terms listed below shall be defined as follows:

(A) **Electronic Mail (E-Mail).** Electronic mail may include non-interactive communication of text, data, image, or voice messages between a sender and designated recipient(s) by systems utilizing telecommunications links. It may also include correspondence transmitted and stored electronically using software facilities called “mail”, “facsimile”, “messaging” systems or voice messages transmitted and stored for later retrieval from a computer system.

(B) **Encryption Software.** Proprietary software that changes information from its native state to an unrecognizable coded state that can only be returned to its native state with special software.

(C) **Internet.** A worldwide network of networks, connecting informational networks communicating through a common communications language or “Protocol”.

(D) **Intranet.** An in-house web site that serves the users of the City. Although Intranet pages may link to the Internet, an Intranet is not a site accessed by the general public.

(E) **World Wide Web.** An Internet client-server distributed information and retrieval system based upon hypertext transfer protocol (http) that transfers hypertext documents that can contain text, graphics, audio, video, and other multimedia file types across a varied array of computer systems.

(F) **Users.** Elected Officials, Department Heads, Employees, Volunteers, Contractors and Consultants.

(G) **Firewall.** An electronic device used to protect private networks from unauthorized access from users on the Internet.

11-9-37 OWNERSHIP. The electronic communication system is the property of the City. All computer equipment, computer hardware and computer software provided by the City are the property of the City. All communications and information transmitted by, received from, or stored in these systems are the property of the City.

11-9-38 USE OF ELECTRONIC COMMUNICATIONS. The City’s electronic communications systems, including e-mail and the Internet, are intended for City business use only. Personal uses of the Internet and e-mail systems are prohibited. The City reserves the right to use

filtering software to block access to Internet sites that are considered inappropriate or non-productive. The filtered sites shall be reviewed and approved by the Mayor.

Before using these systems, all users shall understand that any information that is created, sent, received, accessed or stored in these systems shall be the property of the City and shall not be private. If a User is permitted to use electronic communication systems, such use shall not violate any section of this policy or interfere with user's work performance.

Users shall use the same care and discretion when writing e-mail and other electronic communications as they would with any formal written communication. Any messages or information sent by users to other individuals via electronic communication systems, such as the Internet or e-mail, are statements identifiable and attributable to the City. Consequently, all electronic communications sent by users shall be professional and comply with this policy.

11-9-39 PROHIBITED COMMUNICATIONS. Under no circumstances may any user operate the City's electronic communications systems for creating, possessing, uploading, downloading, accessing, transmitting or distributing material that is illegal, sexually explicit, discriminatory, defamatory or interferes with the productivity of coworkers. Specifically prohibited communications include, but are not limited to, communications that promote or transact the following: illegal activities; outside business interests; malicious use; personal activities (including chat rooms); jokes; political causes; football pools or other sorts of gambling; recreational games; the creation or distribution of chain letters; list servers for non-work purposes; "spams" (mailing to a large number of people that contain unwanted solicitations or information); sexual or any other form of harassment; discrimination on the basis of race, creed, color, gender, religion or disability; or for solicitations or advertisements for non-work purposes. Users may not engage in any use that violates copyright or trademark laws.

Also prohibited is any activity that could negatively impact public trust and confidence in the City or create the appearance of impropriety.

Users are also prohibited from posting information, opinions or comments to Internet discussion groups (for example: news groups, chat, list servers or electronic bulletin boards). Under no circumstances may any user represent their own views as those of the City.

Users may not disclose confidential or sensitive information. Personal information such as the home addresses, phone numbers, and social security numbers of Elected Officials or Employees should never be disclosed on the Internet.

11-9-40 NO PRESUMPTION OF POLICY. Although users may use passwords to access some electronic communication systems, these communications should not be considered private. Users should *always assume* that any communications, whether business-related or personal, created, sent, received or stored on the City's electronic communication systems may be read or heard by someone other than the intended recipient.

Users should also recognize that e-mail messages deleted from the system may still be retrieved from the computer's back-up system when requested by authorized personnel. Consequently, messages that were previously deleted may be recreated, printed out, or forwarded to someone else without the user's knowledge.

11-9-41 CITY'S RIGHT TO MONITOR USE. Under authorization of the Mayor, the City may monitor, intercept, access, and disclose all information created, sent, received, or stored on its electronic communication systems at any time, with or without notice to the user. The contents of computers, voice mail, e-mail and other electronic communications will be inspected when there are allegations that there have been breaches of confidentiality, security, or violations of this Electronic Communications Policy. These inspections will also be conducted when it is necessary to locate substantive information that is not readily available by less intrusive means. Before providing access to

store electronic communications such as e-mail messages, written authorization will be required from the Mayor.

The contents of the computers, voice mail, e-mail and other electronic communications may be turned over to the appropriate authority when there are allegations that there have been violations of law.

In addition, the City will regularly monitor and maintain a log of the user's Internet access, including the type of sites accessed, the name of the server, and the time of day that access occurs. The Mayor will have access to this log upon request. They may use this information that was obtained through monitoring as a basis for employee discipline.

The Mayor may authorize individuals for investigative purposes to engage in activities otherwise prohibited by this policy.

11-9-42 PROHIBITED ACTIVITIES. Users shall not download software programs of any kind. No software is to be installed on City computers without the approval of the City Council. Users may not upload, download, or otherwise transmit copyrighted, trademarked, or patented material; trade secrets; or confidential, private or proprietary information or materials. Users may not use the City's electronic communication systems to gain unauthorized access to remote computers or other systems or to damage, alter, or disrupt such computers or systems in any way, nor may users use someone else's code or password or disclose anyone's code or password including their own. It is a violation of this policy for users to intentionally intercept, eavesdrop, record or alter another person's Internet and e-mail messages. Users may not allow unauthorized individuals to have access to or use the City's electronic communication systems, or otherwise permit any use that would jeopardize the security of the City's electronic communication systems. Also, users may not post an unauthorized home page or similar web site.

Users may not make unauthorized commitments or promises that might be perceived as binding the City. Users must use their real names when sending e-mail messages or other electronic communications and may not misrepresent, obscure or in any way attempt to subvert the information necessary to identify the actual person responsible for the electronic communication. Sending an e-mail message under a fictitious or false name is a violation of this policy. Likewise, using another user's account or login ID constitutes a violation of this policy.

11-9-43 PASSWORDS. Each user will maintain a unique password. Users must keep their passwords confidential and must never leave their computers unattended when logged into the system. Passwords shall be changed whenever a password may have been compromised or revealed or when the computer security system requests a new password.

Directories of user e-mail addresses may not be made available for public access. No visitors, contractors or temporary employees may use the City's e-mail without prior written authorization from the Mayor.

11-9-44 INTERNET USAGE. Access to the Internet from any PC connected to the City's network is only allowed in accordance with this policy. Alternate methods of Internet access, such as using a modem to access a personal dial-up Internet account is prohibited as it may compromise the City's network security exposing it to potential harm from computer hackers.

Sessions on the Internet are logged automatically in exactly the same way that phone numbers are logged in the phone system. Do not use the Internet for tasks that you would not want to be logged.

Web browsers leave "footprints" providing a trail of all site visits. Do not visit any site where you would be reluctant to leave your name and work locations.

Use appropriate judgment before filling out a form included in a Web page. The form shall pass through many interconnecting computers and networks before reaching its destination. Other individuals will be able to eavesdrop on it. Personal or valuable information on the form may not remain confidential. Under no circumstances should you ever put a Social Security number on the Internet.

An Internet message sent from the City's address constitutes a City communication; therefore, it should be composed and structured correctly. Whenever possible, spell check messages prior to transmission, especially when sending to a non-City address.

Sending e-mail from the City's address can be likened to sending a letter on City letterhead. Messages may be forwarded by the recipient to others, printed in a location where others may view the message, and/or directed to the wrong recipient. Also, computer forensic experts can often retrieve e-mail previously deleted. An ill-considered remark can return to haunt the sender later.

Be courteous and follow generally accepted standards of etiquette. Protect others' privacy and confidentiality. Consider the City's needs before sending, filing, or destroying e-mail messages. Remove personal messages, temporary records and duplicate copies in a timely manner.

11-9-45 **RECORDS RETAINED.** Certain significant types of e-mail messages or their attached files may be considered records and should be retained if required by the City's record-retention policies. Examples of messages sent by e-mail that may constitute records include:

- (A) policies and directives;
- (B) correspondence or memoranda related to official business;
- (C) work schedules and assignments;
- (D) agendas and minutes of meetings;
- (E) drafts of documents that are circulated for comment or approval;
- (F) any document that initiates, authorizes, or completes a business transaction; and
- (G) final reports or recommendations.

11-9-46 **RECORDS DISPOSAL.** The content and maintenance of a user's electronic mailbox are the user's responsibility. The content and maintenance of a user's disk storage area are the user's responsibility. Each user should review his/her electronic records for deletion every **thirty (30) days**.

Messages of transitory or little value that are not normally retained in record-keeping systems should be regularly deleted. Informational messages, such as meeting notices, reminders, informal notes, and telephone messages should be deleted once the administrative purpose is served. If it is necessary to retain any e-mail message for an extended period, transfer it from the e-mail system to an appropriate electronic or other filing system. With the approval of the Mayor, the City Clerk or one of his/her staff members designated by him/her is permitted to remove any information retained in an e-mail system for more than **thirty (30) days**.

11-9-47 **ACCESSING USER E-MAIL DURING ABSENCE.** During a user's absence, the Mayor may authorize the City Clerk to access the user's e-mail messages and electronic Internet records without the consent of the user when necessary to carry out normal business functions.

11-9-48 **FIREWALLS AND NETWORK PROTECTION.** Firewalls and other devices to ensure the safety of the City private network will be installed to protect all City Electronic Communication Systems. Local governments are often targets of hackers and unauthorized intrusions because of the unique types of information stored on their systems. For this reason, the City takes a *very cautious* approach to security regarding the Internet and e-mail. Policies to ensure the security of the system include, but are not limited to: blocking access to certain Internet sites; filtering out potentially threatening e-mail attachments; filtering out dangerous types of web pages including Java Script, and ActiveX programs. Other methods of security may be deployed as new threats are discovered.

Any attempts to bypass or disable the security features installed by the City will be in violation of this policy and may result in disciplinary action.

11-9-49 **PASSWORD PROTECTION.** Users should use caution when using encryption software or password protecting their files. Password protected files cannot be retrieved without the necessary password. The City is not responsible for any lost, damaged or inaccessible files that result from password protection.

11-9-50 **VIRUSES AND TAMPERING.** Any files downloaded from the Internet must be scanned with virus detection software before installation and execution. All computers designated as having access to the Internet and e-mail must have virus detection software installed on them. Users may not deliberately disable the virus protection capabilities of these systems. The intentional introduction of viruses, attempts to breach system security, or other malicious tampering with any of the City's electronic communication systems is expressly prohibited. Users must immediately report any viruses, tampering or other system breaches to the Mayor or a designated officer.

Many viruses are transmitted through the e-mail system as attachments. Caution should be practiced prior to the accessing of any attachments to e-mail messages. Never access any unexpected attachments without verifying the source and reason for it, even if you recognize the sender of the e-mail. It is common practice for hackers to alter the source of an e-mail in an attempt to spread a virus.

11-9-51 **DISCLAIMER OF LIABILITY FOR USE OF THE INTERNET.** The City is not responsible for material viewed or downloaded by users from the Internet. The Internet provides access to a significant amount of information, some of which contains offensive, sexually explicit and inappropriate material. It is difficult to avoid contact with this material; therefore, users of the Internet do so at their own risk.

11-9-52 **DUTY NOT TO WASTE ELECTRONIC COMMUNICATIONS RESOURCES.** Users must not deliberately perform actions that waste electronic communication resources or unfairly monopolize resources to the exclusion of other users. This includes, but is not limited to, subscribing to list servers, mailing lists or web sites not directly related to the user's job responsibilities; spending nonproductive time on the Internet; and doing large non-work related file downloads or mass mailings. Electronic communication resources are limited and users have a duty to conserve these resources.

11-9-53 **E-MAIL ADDRESSES.** The City reserves the right to keep a user's e-mail address active for a reasonable period of time following the user's departure to ensure that important business communications reach their respective department.

11-9-54 **FREEDOM OF INFORMATION ACT REQUESTS.** The City will not accept Freedom of Information Act (F.O.I.A.) requests from the public via the Internet. If a citizen e-mails a F.O.I.A. request to a user, the employee should notify the citizen that these requests must be made in writing in compliance with the Freedom of Information Code. **(See Chapter 22)**

11-9-55 **USE OF CREDIT CARDS ON THE INTERNET.** Before making purchases on the Internet, users who are authorized to use City credit cards must ensure that they are using a secured site. The City recommends that users do not use their credit cards over the Internet and expressly disclaims responsibility for any loss or damages that results from credit card usage over the Internet.

11-9-56 **VIOLATIONS.** Violations of this policy may subject employees to disciplinary action ranging from the removal of electronic communication privileges to dismissal from employment. City employees who observe violations of this policy are obligated to report the violations to the Mayor or City Clerk.

11-9-57 **POLICY CHANGES.** The City reserves the right to change this policy at any time with notice. Nothing in this policy is intended or should be construed as an agreement and/or a contract expressed or implied. Policy changes will be disseminated electronically or in written form within **forty-eight (48) hours** of taking effect after an ordinance has been adopted.

ARTICLE X - RIGHTS OF EMPLOYEES

11-10-1 **PERSONNEL FILE.** Employees are allowed to look at their own personnel files during normal business hours. Persons wishing to view their own file shall file a written request with the Mayor or the City Clerk. A copy of the request shall be placed in the employee's personnel file. Nothing should be placed in an employee's personnel file nor shall anything be removed from the file without the consent of the Mayor and City Council. Records of prior grievances and discipline action shall be maintained in the employee's personnel file. The final decision to remove items lies within the discretion of the Mayor and the City Council.

11-10-2 **REFERENCES.** Employees or former employees have the right to obtain references or recommendations. Such references shall provide the applicable date of hire and the last date employed, and a general description of the applicable job duties. Additional comments concerning the employee or former employee's job performance dependabilities lies within the sound discretion of the Superintendent.

11-10-3 **SAFETY.** The Superintendent shall implement any safety procedures adopted by the City, and employees shall comply with any of the safety procedures.

All employees are directed to report any hazardous conditions to their supervisor immediately.

Due to the open-office design of many department buildings, it is impossible to provide security for personal belongings left unattended. Employees are advised to keep their wallets, purses, etc. in their possession at all times. The Municipality cannot be responsible for losses due to theft.

ARTICLE XI - RIGHTS OF EMPLOYER

11-11-1 **CITY'S RIGHTS.** The employee recognizes that the City possesses the exclusive right to operate and direct the employees of the City in all aspects, including, but not limited to, all rights and authority granted by law.

The employee further recognizes that this Code is not a binding contract between the City and the employee. Nothing contained in this Code shall be construed as creating an employment agreement between the City and its employees from time to time.

11-11-2 **NEW REGULATIONS.** 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 approval or consent of the employees of the City.

11-11-3 **MANAGEMENT RESPONSIBILITIES.** The employer has the ultimate responsibility for proper management including but not limited to responsibilities and the right for the following:

(A) To maintain executive management and administrative control of the department and its property, facilities and staff.

(B) To hire all employees and to determine their qualifications and the conditions for their continued employment or their dismissal or demotion.

(C) To direct, supervise, promote, suspend, discipline, terminate, assign and schedule employees.

(D) To relieve employees from duties because of a lack of work or funds, or under conditions where continued work would be inefficient or nonproductive or under conditions as may be deemed necessary or advisable by the department.

(E) To determine services to be rendered, operations to be performed, utilization of technology and budgetary matters.

(F) To determine the methods, processes, means, job classifications and personnel by which the operations of the department are to be conducted.

It is recognized that the employer normally exercises most of the powers, rights, authorities, duties and responsibilities through and with the cooperation of the administrative staff.

11-11-4 **LENGTH OF SERVICE.** Length of service is defined as the length of continuous service of an employee since the employee's last date of hire with the City within the employee's department. In the event an employee is transferred from or to another department of the City, the employee's total continuous employment with the City will be used as the basis for vacation and sick leave only.

An employee's continuous service record shall be broken by voluntary resignation or discharge. If such continuous service is broken due to curtailment of operation, said employee shall be considered on layoff.

11-11-5 **EXEMPTIONS TO LABOR AGREEMENTS.** All sections and subsections of this Code shall not apply to the employees governed by a collective bargaining agreement provided the subject matter in the Collective Bargaining Agreement sections are the same.

ARTICLE XII - SEXUAL MISCONDUCT POLICY

11-12-1 SEXUAL MISCONDUCT POLICY STATEMENT. The City will not tolerate and will seek to eradicate any behavior by its employees, volunteers or students which constitutes sexual misconduct toward another employee, volunteer or student. "Sexual misconduct" means any actual, attempted or alleged sexual molestation, assault, abuse, sexual exploitation or sexual injury. "Sexual misconduct" does not include "sexual harassment".

11-12-2 REPORTING PROCEDURES AND DESIGNATED SEXUAL ABUSE COORDINATOR. It is the express policy of the City to encourage victims of sexual misconduct, and their parents or guardians in the case of minors, to come forward with such claims. The City shall designate a Sexual Abuse Coordinator, who hereinafter shall be referred to as "Coordinator", who shall remain accountable for the implementation and monitoring of this policy. The identity of the Sexual Abuse Coordinator shall remain on file with the City. In order to conduct an immediate investigation, any incident of sexual misconduct shall be reported as quickly as possible in confidence, as follows:

(A) **Employees and Volunteers.** Employees and volunteers are required to report any known or suspected incidents of sexual misconduct. They must also report to their supervisor or the Coordinator. If the person to whom an employee or volunteer is directed to report is the offending person, the report should be made to the next higher level of administration or supervision.

(B) **Investigation and Confidentiality.** All formal complaints will be given a full impartial and timely investigation. During such investigation, while every effort will be made to protect the privacy rights of all parties' confidentiality cannot be guaranteed.

(C) **Discipline.** Any City employee or volunteer who is determined, after an investigation, to have engaged in sexual misconduct in violation of this policy will be subject to disciplinary action up to and including discharge.

False accusations regarding sexual misconduct will not be tolerated, and any person knowingly making a false accusation shall likewise be subject to disciplinary action up to and including discharge, with regard to employees or volunteers.

The City shall discipline any individual who retaliates against any person who reports alleged sexual misconduct or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to a sexual misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

11-12-3 CHILD ABUSE. Sexual abuse of a minor is a crime.

(A) **Child Abuse Incident Reporting and Follow-Up.** Any case of known or suspected child abuse of a minor must be reported immediately in compliance with Illinois mandatory reporting guidelines and to the Coordinator and the City Attorney's Office.

In the event that the Coordinator is first notified of an incident of known or suspected child abuse, the Coordinator shall immediately notify the child's parent or legal guardian as the case be, and the appropriate legal authorities as required by state or local law. The Coordinator shall prepare a Suspected Child Abuse Standard Report and immediately follow-up to investigate the incident and to ascertain the condition of the child. The Coordinator shall communicate any questions or concerns about any incident with the State's Attorney.

Any employee or volunteer involved in a reported incident of sexual misconduct or child abuse shall be immediately relieved of responsibilities that involve interaction with minors or shall be suspended, as determined by the employee's supervisor. Reinstatement of employees or volunteers involved in a reported incident of child abuse shall occur only after all allegations of child abuse have been cleared by the County.

(B) **Maintenance of Records and Documents.** The Coordinator shall maintain all records and documentation required by law or otherwise required by this and other such related policies of the City including all documents related to procedures for hiring-screening, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting follow-up and disciplinary action.

ARTICLE XIII – SOCIAL MEDIA POLICY

11-13-1 **MISSION STATEMENT.** It shall be the mission of the City to ensure its employees maintain professional conduct in their on and off work lives. This shall include the image an employee portrays of themselves on the internet and computer related media.

11-13-2 **PURPOSE.** The purpose of this policy is to outline the expectations of employees with respect to their use of social media and social networking and the direct effect such use has upon the reputation and perception of the City.

11-13-3 **POLICY.** Employees shall not use any form of social media or social networking, including but limited to: Facebook, Twitter, MySpace, LinkedIn, Tumblr, YouTube, Google+, Pinterest, Instagram, Foursquare, The Squad Room, usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, in any way so as to tarnish the City's reputation. Employees of the City are embodiments of our mission. It is vital that each employee accept their role as ambassadors of the department, striving to maintain public trust and confidence, in not only their professional actions but also in their personal and online actions. Any online activity that has the effect of diminishing the public's trust and/or confidence in the City will hinder the efforts of the City to fulfill its mission. Any online actions taken that detract from the mission of the City, or reflects negatively on the position of the City will be viewed as a direct violation of this policy. For police officers: by virtue of the position of peace officer, they are held to a higher standard than general members of the public and their online activities should reflect such professional expectations and standards.

11-13-4 **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 now shall it, in any way, undermine the public's trust or confidence of the City departments.
- (7) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the legal, judicial or criminal systems shall not, in any way, undermine the public's trust and confidence of the City departments.
- (8) Any posting that detracts from the City department's mission will be considered a direct violation of this policy.

(E) Employees who are brought under administrative or internal investigation related to their performance, functionality or duties may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(F) Employees who are brought under administrative or internal investigation related to the City's operation, productivity, efficiency, morale or reputation, may be ordered to provide the City, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(G) If requested, any employee shall complete an affidavit attesting to all the social media and social networking platforms in which they mail or participate.

(H) Any candidate seeking employment with the City shall complete an affidavit attesting to all the social media and social networking platforms in which they maintain or participate.

ARTICLE XIV – ANTI-BULLYING POLICY

11-14-1 APPLICATION OF POLICY. The City finds a safe work environment is beneficial for employees and promotes productivity. Workplace bullying has been linked to absenteeism, drug and alcohol use, and sexual violence. The City considers workplace bullying unacceptable and will not tolerate it. The anti-bullying policy shall apply to all individuals who are employees, volunteers and contractors. For purposes of this policy:

- (A) **"Employee"** is defined as an individual working for the City for remuneration;
- (B) **"Volunteer"** is defined as an individual who volunteers services to the City without remuneration;
- (C) **"Contractor"** is defined as an individual who contracts with the City to provide services, or an individual who works for a contractor of the City.

11-14-2 DEFINITION. Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) placing the person in reasonable fear of harm to the person or the person's property;
- (B) causing a substantially detrimental effect on the person's physical or mental health;
- (C) substantially interfering with the person's productivity; or
- (D) substantially interfering with the person's ability to participate in or benefit from the opportunities offered by the employer.

Bullying may be intentional or unintentional. The City considers the following types of behavior illustrative examples of bullying: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

11-14-3 BULLYING PROHIBITED. Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, and any other distinguishing characteristic is prohibited in all places of employment, and an employer shall prevent bullying in its place of employment.

- (A) No person shall be subjected to bullying:
 - (1) during any period of employment activity;
 - (2) while working, on property of the employer, or at employer-sponsored or employer-sanctioned events or activities; or
 - (3) through the transmission of information from an employment utilized telephone, computer, computer network, or other similar electronic employer-utilized equipment.
- (B) Nothing in this policy is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment of the United States Constitution.

11-14-4 DISCIPLINARY ACTION. Any employee or volunteer who is determined, after an investigation, to have engaged in bullying in violation of this policy shall be subject to disciplinary action up to and including immediate discharge. Any contractor found to be in violation of this policy may be subject to contract cancellation.

(A) **False Accusations.** False accusations regarding bullying against employees, volunteers, contractors, or elected officials shall not be tolerated, and any person knowingly making a false accusation shall be subject to disciplinary action up to and including immediate discharge.

(B) **Retaliation for Reporting Bullying.** The City shall discipline any employee or volunteer who retaliates against any person who reports who reports alleged bullying, or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to bullying complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Contractors are likewise prohibited from retaliating.

11-14-5 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 XV – DOMESTIC AND SEXUAL VIOLENCE POLICY

11-15-1 PURPOSE OF POLICY. Domestic violence can permeate the lives and compromise the safety of employees with tragic, destructive and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past. Domestic violence represents a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against another in an intimate relationship or in the same household, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The City will take appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

11-15-2 DEFINITION. For purposes of this policy and pursuant to the Illinois Victims' Economic Security and Safety Act (VESSA), the following terms are defined as follows:

(A) **"Abuser":** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

(B) **"Domestic Violence":** Domestic violence means abuse by a family or household member, as defined by this policy pursuant to Section 103 of the Illinois Domestic Violence Act of 1986. Domestic violence includes sexual assault or stalking.

(C) **"Employee":** A person working for the City for remuneration for services.

(D) **"Family or Household Member":** For employees with a family or household member who is a victim of domestic or sexual violence, this means spouse, parent, son, daughter, other person related by blood or by present or prior marriage, another person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(E) **"Parent"** means biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter as defined herein.

(F) **"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under **eighteen (18) years** of age, or is **eighteen (18) years** of age or older and incapable of self-care because of a mental or physical disability.

11-15-3 VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA). The person against whom an abuser directs coercive and/or violent acts, including an employee who is a victim of domestic or sexual violence, or an employee's family or household member who is a victim of domestic or sexual violence, and whose interests are not adverse to the employee as it related to domestic or sexual violence.

11-15-4 POLICY.

(A) **Employee Awareness.** The City shall take reasonable actions to educate employees regarding the effects of domestic violence and methods to report such violence to authorities. It is the policy of the City that information on domestic violence and available resources shall be available to employees through the City Council and by this written policy, which shall be disseminated to employees.

(B) **Non-Discriminatory Policy.** Non-Discriminatory and Responsive Personnel Policies for Victimized Employees of the City shall ensure that personnel policies and procedures do not

discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- (1) Illinois law prohibits employers from interfering with, restraining, or denying the exercise of any right provided under VESSA. This law requires employers, when given **forty-eight (48) hours** prior notification, to allow time off for employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from the employer for the employee or the family or household member who is a victim.
- (2) Illinois law prohibits employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence.
- (3) An employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence and whose interests are not adverse to the employee as it relates to domestic or sexual violence, may take unpaid leave from work to address domestic or sexual violence by:
 - (a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the victim;
 - (b) obtaining services from a victim services organization for the victim;
 - (c) obtaining psychological or other counseling for the victim;
 - (d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the victim;
 - (e) seeking legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.
- (4) The employee shall be entitled to a total of **twelve (12) workweeks** of leave during any **twelve (12) month** period. This policy does not create a right for an employee to take an unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to, the unpaid leave time permitted by the federal Family Medical Leave Act. Leave may be taken intermittently or on a reduced work schedule. An employee may substitute accumulated paid leave for unpaid leave; however, the paid leave will count toward the number of workweeks used for purposes of this policy. The employee shall provide at least **forty-eight (48) hours** advance notice of the employee's intention to take leave, unless providing such notice is not practicable. No action will be taken against an employee for failing to provide **forty-eight (48) hours** advance notice if the employee provides certification that leave was used for the purposes outlined in **Section 11-15-4(B)(2)** of this Section and can demonstrate that advance notice was not practicable.
- (5) During a leave taken pursuant to this policy, the City shall maintain coverage under its group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of such leave. If the employee fails to return from leave, however, the City may recover any premium costs it paid for such coverage if the reason

for the employee not returning is other than the continuation, recurrence, or onset of domestic or sexual violence or circumstances beyond the control of the employee. Neither seniority nor leave benefits will accrue to the employee during unpaid leave.

- (6) The City, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family or household member who has been a victim of domestic violence, the employee's supervisor or the City Council (or their designee) will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- (7) The City requires certification from an employee for leave under this policy. The employee shall certify that the leave is for one of the purposes enumerated in **Section 11-15-4(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 XVI - DISCIPLINE

11-16-1 **PROCEDURE.** The formal disciplinary process is a five step procedure, but dismissal may occur at any step in the process. Superintendents may use the Discipline Form attached as **Appendix B** for documentation purposes. Under normal circumstances, these steps are outlined in the following sections.

11-16-2 **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.

11-16-3 **WRITTEN REPRIMAND.** A written reprimand informs an employee of unsatisfactory conduct, attitude or performance. Written reprimand is more severe than a verbal reprimand, but serves the same purpose to acknowledge further unsatisfactory conduct, attitude, or performance will result in more severe disciplinary action. A copy of the written reprimand will be sent to the employee, the Superintendent, Mayor and employee's personnel file.

11-16-4 **PROBATION.** Employee may be placed on probation by the Superintendent and/or the Mayor 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 superintendent, and approval of the Mayor.

11-16-5 **ADMINISTRATIVE LEAVE.** An Employee may be placed on administrative leave by the Mayor with or without pay and benefits pending an investigation based on alleged violation of the municipal policies and procedures. The administrative leave may be extended for the period of time the investigation continues but no longer than **thirty (30) days**.

11-16-6 **SUSPENSION.** Suspension of an employee would be at the discretion of the Superintendent. The suspension will result in a loss of salary for the period of the suspension. Upon return to work the suspended employee will be placed on probationary status for a period not to exceed **six (6) months**. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of a probationary period, a recommendation from the employee's immediate superintendent, and the approval the Mayor and City Council. The period of suspension may be up to but not exceeding **thirty (30) days** off without pay in one calendar year. The suspension may include demotion, and is within the discretion of the Superintendent.

11-16-7 **DISMISSAL.** Dismissal shall be used as a disciplinary action of last resort at the discretion of the Mayor and the City Council. All employees are subject to discharge by the Mayor with the advice and consent of the City Council during any of the disciplinary steps.

- 11-16-8 CODE OF CONDUCT.** Disciplinary action may be brought against an employee for the following, including but not limited to:
- (A) Violating any provisions of this Personnel Code.
 - (B) Knowingly falsifying a report.
 - (C) Being insubordinate to or showing disrespect towards superiors.
 - (D) Neglecting to perform the job or performing the job inefficiently.
 - (E) Engaging in any conduct unbecoming of a City employee or that discredits the City.
 - (F) Leaving the assigned job without permission.
 - (G) Absence from work without leave or permission.
 - (H) Willfully destroying or damaging any property of the City.
 - (I) Taking or giving bribes.
 - (J) Being under the influence of intoxicating beverages while at work.
 - (K) Using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substances, or failing to report to the employee's Superintendent any arrest or conviction for using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substance.
 - (L) Failure of any employee to notify their Superintendent within **five (5) days** after an arrest or conviction of a violation of any local, state, or federal criminal drug statute.
 - (M) Using a City vehicle without the knowledge of the immediate supervisor.
 - (N) Improperly operating a City vehicle or permitting an unauthorized person to operate a City vehicle.
 - (O) Excessive unexcused absence from work or tardiness.
 - (P) Possession of explosives, firearms or other dangerous weapons on City premises, unless otherwise permitted.
 - (Q) Use of overtime for other than work purposes.
 - (R) Failure to follow any safety rules, regulations, or manuals.
 - (S) Gambling during working hours around City premises.
 - (T) Sleeping on the job.
 - (U) Being discourteous to the public.
 - (V) Engaging in or instigating or causing an interruption or impeding work.
 - (W) Substantial misrepresentation of facts in obtaining employment with the City.
 - (X) The use or consumption of City property for personal or private purposes, or the use of City employees during working hours for such purposes.
 - (Y) 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.
 - (Z) Unauthorized use of City property such as City owned vehicles, equipment and materials.
 - (AA) Abuse of sick leave by misrepresentation of the leave request
 - (BB) Violation of a written order of a Superintendent.
 - (CC) Failure to pay legitimate debts, thus exposing the City to harassment by creditors.
 - (DD) Using profanity on the job.
 - (EE) Releasing confidential information.
 - (FF) Using or attempting to use an official position to secure special privileges, exemptions, or personal gain except as may be otherwise provided by law.
 - (GG) Engaging in disreputable acts and not conducting themselves with "good moral character".
 - (HH) Abuse of telephone usage.
 - (II) Theft of any City or employee property.
 - (JJ) 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.

- (KK) Failure to perform essential functions of his/her position.
- (LL) Abusing City computer equipment.
- (MM) Charged with misdemeanor or felony.
- (NN) Allowing drug and/or alcohol in or on machinery and/or vehicles.

11-16-9 **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 Superintendent or the Corporate Authorities.

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.

ARTICLE XVII - MISCELLANEOUS

11-17-1 GRIEVANCE PROCEDURE. The purpose of a grievance procedure is to establish and maintain harmonious and cooperative working relationships between the City and its employees, to assure equitable treatment of employees, and to provide expeditious means of resolving employee dissatisfaction over circumstances or conditions of employment.

Strict adherence to the grievance procedures and time limits is mandatory, except that the time limits may be extended for good cause.

A grievance is defined as a dispute, disagreement, complaint, or any matter concerning any terms or conditions of employment, or concerning the application of any departmental policy, or concerning any employee relationship, or work related issue.

As used in this Article, the term days shall mean working days of the employee filing the grievance.

At any step, if a written response is not provided to the grieving employee within the **ten (10) day** time frame, the grievance will be considered denied at that step, and the employee may proceed to the next step.

If any Superintendent is disciplined and/or discharged by the Mayor with the advice and consent of the City Council, the discipline and/or discharge shall constitute the final resolution of the matter and there shall be no access in this instance to the various steps of the grievance procedure. The failure of a reappointment of a Superintendent by the Mayor shall not be interpreted to constitute discipline and/or discharge of an ongoing employment relationship with the City.

Steps:

(A) A grieving employee shall within **five (5) days** after he learns of the circumstances or conditions which prompted the grievance, submit the grievance to the employee's Superintendent, in writing, informing such Superintendent of the grievance and the particulars concerning the same. The Superintendent shall provide a written response to the grieving employee within **ten (10) days** after receiving the grievance.

(B) If the grievance is not resolved to the employee's satisfaction, the employee may submit the grievance to the Mayor by summarizing the grievance in writing.

The grievance must be submitted to the Mayor within **five (5) days** of the decision of the Superintendent.

For all other employees, the grievance shall be before the Mayor.

(See Appendix "C" for Disability Act Procedure.)

11-17-2 LAYOFFS. In the event it becomes necessary to layoff employees for any reason, employees will be laid off based on the following criteria: Employee's knowledge, skills, and abilities in relation to positions available, lack of work, lack of funds, the employee's length of service, the employee's work record including commendations as well as disciplinary action, the employee's attitude and relations with other employee's as well as other agencies and change in duties of the department. The employee shall receive **two (2) weeks'** notice.

11-17-3 RESIGNATION. Sick leave, vacation, and retirement fund benefits cease at midnight on the date of termination. Life and health insurance will cease at the end of the month of the termination. Employees may elect to continue participation in the plan on a self-pay basis as provided by federal statutes. The employee will be paid for each day of accrued and unused vacation time. Monies accumulated in the employee's retirement account may be refundable, according to IMRF Rules. Forms required to request this refund are available from the City Clerk's office.

APPENDIX A

**EMPLOYEE NOTIFICATION OF PERSONNEL CODE
DRUG FREE WORKPLACE POLICY, SEXUAL MISCONDUCT POLICY AND
DISCLAIMER OF EMPLOYMENT**

The Employee Code of the City is not intended to create any employment relationship with any employees that is contractual in nature. All employees are employed at the will of the City, and employees can be terminated at will. All employment policies of the City are subject to change without notice and/or approval of any employee. Any and all discipline and/or discharge procedures contained in this Code are illustrative in nature, and only provide examples of the manner in which employees may be disciplined or terminated. Any and all such procedures are not meant to be the sole or exclusive way in which discipline or discharge could occur.

By signing this disclaimer, the employee understands that the employment relationship between the employee and the City is NOT contractual in nature; that employment can be terminated at the will of the City, that all employment policies are subject to change without notice and/or approval of the employee; and that any and all discipline and/or discharge procedures contained in the Code are merely illustrative in nature, and are not meant to be the sole or exclusive manner in which discipline and/or discharge could occur.

I have been given a copy of the City's Employee Code, originally adopted _____
_____, 20__.

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 B

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/Mayor

DATE _____

(Signature of Employee)

APPENDIX C

AMERICANS WITH DISABILITY ACT GRIEVANCE PROCEDURE

1. All complaints regarding access or alleged discrimination should be submitted in writing to the American Disability Act Coordinator for resolution. A record of the complaint and action taken will be maintained. A decision by the ADA Coordinator will be rendered promptly.
2. If the complaints cannot be resolved to the satisfaction of the complainant by the ADA Coordinator, then for building accessibility issues, the matter shall be turned over to the City Council for consideration. For employment and public service issues, the matter will be forwarded to the City Council for consideration.
3. If the complaint cannot be resolved to the complainant's satisfaction by the City Council, the complaint will be reviewed and decided upon by the Mayor. The decision of the Mayor 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 D

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 _____ 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 Mayor on the date intended, it will be considered that I abandoned my job.

Employee Signature _____ Date _____

Address _____ Phone _____

LEAVE APPROVAL

For full day leave:

Superintendent/Mayor _____
Signature Date

For intermittent or reduced day leave:

Superintendent/Mayor _____
Signature Date

Notes: _____

PAYROLL INSTRUCTIONS

[] With pay from _____ to _____ Employee # _____

[] Without pay from _____ to _____

Comments: _____

PLEASE FORWARD COMPLETED REQUEST TO THE CITY CLERK FOR FURTHER PROCESSING.

APPENDIX E

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 shall be recommended by employee's Superintendent and approved by the corporate authorities. 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:

Employee Signature _____ Date _____

Address _____ Phone _____

LEAVE APPROVAL

Superintendent _____
Signature _____ Date _____

PLEASE FORWARD COMPLETED REQUEST TO THE CITY CLERK FOR FURTHER PROCESSING.

CHAPTER 13– ENTERPRISE ZONE

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>Section 13-1-1</i>	- <i>Zone Established</i>	<i>13-1</i>
<i>Section 13-1-2</i>	- <i>Term of Zone</i>	<i>13-1</i>
<i>Section 13-1-3</i>	- <i>Area of Zone</i>	<i>13-1</i>
<i>Section 13-1-4</i>	- <i>Declaration of Qualification</i>	<i>13-1</i>
<i>Section 13-1-5</i>	- <i>Sale of Building Materials</i>	<i>13-1</i>
<i>Section 13-1-6</i>	- <i>Abatement of Taxes</i>	<i>13-2</i>
<i>Section 13-1-7</i>	- <i>Waiver of Fees</i>	<i>13-2</i>
<i>Section 13-1-8</i>	- <i>Urban Shopstead Program Established</i>	<i>13-2</i>
<i>Section 13-1-9</i>	- <i>Designation of Zone Organizations</i>	<i>13-3</i>
<i>Section 13-1-10</i>	- <i>Zone Administrator Position Established</i>	<i>13-3</i>

CHAPTER 13

ENTERPRISE ZONE

13-1-1 ZONE ESTABLISHED. The City 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 (20th) year** after the year in which the Enterprise Zone is certified, unless otherwise stated herein.

13-1-3 AREA OF ZONE. As amended by the units of government and approved by the Illinois Department of Commerce and Community Affairs, the area of the Enterprise Zone shall be as described in Exhibits A-1, A-2, A-3, A-4, A-5, A-6, A-7 and A-8, as outlined in the maps in Exhibits B, B-1, B-2, B-3, B-4, B-5, B-6, B-7 and B-8, which exhibits are attached to this Code and made a part hereof. **(Ord. Nos. 36-96; 37-96; 38-96; 09/09/96)**

13-1-4 DECLARATION OF QUALIFICATION. The City 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.
- (E) On **December 17, 1990**, the City Council 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 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 BUILDING MATERIALS. Each retailer whose place of business is within the City of Herrin and who makes a sale of building materials to be incorporated into real estate located in the Enterprise Zone by remodeling, rehabilitation or new construction, may deduct receipts from sales of building materials to be incorporated into real estate located within the Enterprise Zone by remodeling, rehabilitation, or new construction, to the extent 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 (1st) 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. 27-94; 09-12-94)**

13-1-6 **ABATEMENT OF TAXES.** The City 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.

(B) Such abatement shall be allowed for commercial, industrial, or manufacturing property, also for residential property improvement through the urban homestead program located within the zone area. Commercial means the buying and selling of goods and/or services, but does not include the rental or leasing of structures primarily for residential use on a permanent or non-transient basis (including, but not limited to, duplexes, apartments, and condominiums). Hotels, motels, and inns shall be considered commercial for purposes of this Section. **(Ord. No. 43-95; 11-14-95)**

(C) Such abatement shall be at the rate of: 100% of the value of the improvements, for the assessment year in which the improvements are made, and the four assessment years immediately following the year in which the improvements are made, and 50% of the value of the improvements for the succeeding **five (5) years.**

(D) The abatement is allowed only for improvements duly assessed at more than \$10,000 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.

(F) The abatement will apply to the assessed value at the time of approval at the then current taxing rate; if there would be increases in the taxing rate or reassessments done during the time of the abatement period which would increase the assessed value, the business or industry would be responsible for the taxes on the increases.

(G) No abatement shall be applicable to any such improvement located within the boundaries of a Tax Redevelop Project District.

(H) If during the term of said property tax abatement, the company ceases operations due to closure of business operations, (i.e., sales of products, laying off personnel which leads to closure), said property tax abatement is terminated and canceled for the remainder of the term as stipulated under Section 13-1-6(C) in Ordinance No. 65-90, and the Intergovernmental Agreement. **(Ord. No. 44-95; 11-14-95)**

13-1-7 **WAIVER OF FEES.** 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 SHOPSTEAD PROGRAM ESTABLISHED.** Pursuant to Section 10 of the Illinois Enterprise Act, the City 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 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 rules and guidelines issued by the Zone Administrator, with the approval of the Council, provided such rules and guidelines are not inconsistent with the act.

13-1-9 **DESIGNATION OF 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 organization 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.
- (E) Perform such other functions as the City Council may deem appropriate, not inconsistent with the Illinois Enterprise Zone Act.

13-1-10 **ZONE ADMINISTRATOR POSITION ESTABLISHED.** The position of "Zone Administrator" is hereby created. The Zone Administrator will be the Executive Director of the Greater Egypt Regional Planning and Development Commission. In its capacity as a regional planning and development organization, the Commission is an agency of the City. The duties of the Zone Administrator shall be performed in addition to the regular duties of staff of the Commission.

It shall be the power and duty of 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.
- (F) Have other such duties as specified by the City Council.

[Unless Otherwise Noted, This Article Ord. No. 65-90; 12-17-90]

CHAPTER 14 - FLOOD PLAIN CODE

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
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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 Illinois Municipal Code (**65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-8 and 5/11-31-2**) and pursuant to the home rule authority of the City 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 blighted areas; and
- (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 purpose 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 sub-grade (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 includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. 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 roads 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;

(C) installation of utilities, construction of roads, bridges, culverts or similar projects;

(D) construction or erection of levees, dams, walls, or fences;

(E) drilling, mining, filling, dredging, grading, excavating, paving or other alterations of the ground surface;

(F) 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 based 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 of Herrin**, the extraterritorial jurisdiction of the **City of Herrin**, or that may be annexed into the **City of Herrin**, that are subject to inundation by the base flood. The floodplains of the **City of Herrin** are generally identified as such on panel number(s) **170717** of the countywide Flood Insurance Rate Map of **Williamson County** prepared by the Federal Emergency Management Agency and dated **August 4, 2008**. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated **Williamson County** that are within the extraterritorial jurisdiction of the **City of Herrin** or that may be annexed into the **City of Herrin** are generally identified as such on the Flood Insurance Rate Map prepared for **Williamson County** by the Federal Emergency Management Agency and dated **August 4, 2008**.

"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 floodway for the floodplains of **Hurricane Creek** and **Seventeenth Street Ditch** 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 (2)** or more lots for rent or sale.

"New Construction": Structures for which the start of construction commenced on 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 (2)** 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. This 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 the floodplains of **Hurricane Creek** and **Seventeenth Street Ditch** shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of **Williamson County** prepared by the Federal Emergency Management Agency and dated **August 4, 2008**.

(B) The base flood elevation for each floodplain delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the countywide Flood Insurance Rate Map of **Williamson County**.

(C) The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the countywide Flood Insurance Rate Map of **Williamson 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.

(D) The base flood elevation for the floodplains of those parts of unincorporated **Williamson 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 **Williamson County** prepared by the Federal Emergency Management Agency and dated **August 4, 2008**.

14-1-4 DUTIES OF THE CODE INSPECTOR. The Code Inspector 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 Code Inspector 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 Code Inspector. The Code Inspector 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 Code Inspector 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.

The Code Inspector 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.

The Code Inspector 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 Code Inspector 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)** of this Code, 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 following 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 (1/2) foot** at a point **one thousand (1,000) feet** upstream of the proposed structure.
 - (c) There are no 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 following conditions of IDNR/OWR Statewide Permit Number 3:
 - (a) The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.
- (3) Aerial utility crossings meeting the following conditions of IDNR/OWR Statewide Permit Number 4:
 - (a) The utility line must be constructed above the existing 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 following conditions of IDNR/OWR Statewide Permit Number 5:
 - (a) The boat dock must not extend 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 flotation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible.
 - (h) This 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, 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 properly 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 lakeward of the existing adjacent natural bank slope or adjacent bank protection.
 - (b) The velocity of the discharge shall not exceed the scour 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 shall be 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 revertments) 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 landward 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.
 - (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.
 - (c) The cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and down stream 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 and existing levee provided the height of the levee would not be increased nor its alignment changed;
 - (v) placed in 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) 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**, 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) Substantial 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 landfill 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 incorporate debris or refuse materials, and
 - (e) shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary storm water 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 floodwaters. 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:
- (4) 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.
- (5) 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 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.
- (6) 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.
- (7) 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.

- (8) 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.
- (9) Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
- (10) Utility systems within the crawlspace must be elevated above the flood protection elevation.

(C) **Non-Residential Buildings** may 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 IL 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.
- (10) The vehicle must be either (a) entirely supported by jacks, or (b) have a hitch jack permanently mounted, have the tires touching the ground and be supported by blocks in a manner that will allow the blocks 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.

- (2) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
- (3) The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
- (4) The garage or shed must be on a single-family lot and be accessory to an existing principal structure on the same lot.
- (5) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.
- (6) All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
- (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 square foot of floor area.
- (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**.
- (9) The structure shall be anchored to resist flotation and overturning.
- (10) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
- (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 available; 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 its recommendation to the City Council. The City Council 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 protection standards of **Section 14-1-7** 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 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 the 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 reliance on this Code or any administrative decision made lawfully thereunder.

5-3-13 **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 Code Inspector may determine that a violation of the minimum standards of this Code exists. The Code Inspector 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 Court for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with this Code.
 - (2) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues; and

(Ord. No. 9-2001; 03-03-11)

(B) The Code Inspector 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 Code Inspector 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 other ordinances adopted by the City to fulfill the requirements of the National Flood Insurance Program, including **Article III** of the Chapter, adopted on **June 1, 1990**. 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.

14-1-15 **SEVERABILITY.** The provisions and sections of this Code shall be deemed separable and the invalidity of any portion of this Code shall not affect the validity of the remainder.

(65 ILCS 5/1-2-1; 5/11-12-12; 5/11-30-2; 5/11-30-8 and 5/11-31-2)

(Ord. No. 14-2008; 07-14-08)

CHAPTER 15 – FEES AND SALARIES

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CHAPTER 15

FEES AND SALARIES

ARTICLE I – ELECTED OFFICIALS

15-1-1 **EXPENSE REIMBURSEMENTS.** All elected officials shall be entitled to reimbursement for actual expenses incurred by them in the performance of their duties. **(See 65 ILCS Sec. 5/3-13-4 and 5/3-13-64)**

15-1-2 **MAYOR.** The Mayor shall receive an annual salary of **Fifty Thousand Dollars (\$50,000.00)** for his services as chief executive officer and **Four Thousand Dollars (\$4,000.00)** as Local Liquor Control Commissioner effective after the 2021 Municipal Election. Each year after on **May 1**, beginning **May 1, 2022**, the Mayor shall receive an increase of CPI or **two percent (2%)**, whichever is higher. The cost-of-living increase which shall be based upon the Inflation Index as determined by the U.S. Department of Labor. The Mayor shall receive Employee plus spouse Health insurance. Should the Mayor elect to not receive the insurance, they shall receive **seventy-five percent (75%)** of the cost of health insurance premium for the employee plus spouse. **(Ord. No. 29-2020; 08-24-20)**

15-1-3 **ALDERMEN.** Each Alderman shall receive a salary of **Two Thousand Four Hundred Dollars (\$2,400.00)** annually. Aldermen elected in the Municipal Election in 2021 shall receive **seventy-five percent (75%)** of the single health insurance premium rate each month beginning **June 1, 2021**. Aldermen elected in the Municipal Election in 2023 shall receive **seventy-five percent (75%)** of the single health insurance premium rate each month beginning **June 1, 2023**. **(Ord. No. 29-2020; 08-24-20)**

15-1-4 **CITY CLERK.** The City Clerk shall receive an annual salary of **Sixty-Two Thousand Two Hundred Fifty Dollars (\$62,250.00)** effective after the 2021 Municipal Election. Each year after on **May 1**, beginning **May 1, 2022**, the City Clerk shall receive an increase of CPI or **two percent (2%)**, whichever is higher. The cost-of-living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor. The City Clerk shall receive Family Health Insurance. Should the City Clerk elect to not receive the insurance, they shall receive **seventy-five percent (75%)** of the cost of health insurance premium for the employee plus spouse. **(Ord. No. 29-2020; 08-24-20)**

15-1-5 **CITY TREASURER.** The Treasurer shall receive a salary of **Three Thousand Dollars (\$3,000.00)** annually. Beginning **June 1, 2021**, the Treasurer shall receive **seventy-five percent (75%)** of the single health insurance premium rate. **(Ord. No. 29-2020; 08-24-20)**

[NOTE: Revised salaries are scheduled to take effect after the municipal elections in 2001.]

ARTICLE II - APPOINTED DIRECTORS AND EMPLOYEES

15-2-1 COMPENSATION FOR DEPARTMENT DIRECTORS AND EMPLOYEES.

(A) Budget Director/Human Resources Director.

Annual Salary (Effective May 1, 2019) \$57,344.86

The following benefits will be paid to the Budget Director/Human Resources Director as part of base salary:

Monthly Stipend: 140.00
 Monthly 457 Contribution: 100.00

Insurance Pay: **Seventy-five percent (75%)** of the cost of health insurance premium for the employee plus spouse.

The Budget Director/Human Resources Director will have a clothing allowance of **Six Hundred Fifty Dollars (\$650.00)**.

Upon completion of **fourteen (14) consecutive years** of service with the City, in any position, the Budget Director/Human Resources Director shall receive, in addition to salary listed above, a longevity pay of **One Hundred Dollars (\$100.00)** per month.

In addition to the longevity amount set forth hereinabove, the Budget Director/Human Resources Director shall be paid the following longevity pay amounts which shall be considered part of the base salary attached to their position for all purposes:

Employees with more than **twenty (20)**, but less than **twenty-five (25) years** of service: **twenty percent (20%)** of base pay.

Employees with more than **twenty-five (25)** or more years of service: **twenty-five percent (25%)** of base pay.

Eligible employees shall receive such longevity pay amounts for the first full pay period beginning **May 1** of each year and for the first full pay period beginning after **November 1** of the next successive year and so on thereafter when such longevity shall again be paid to the eligible employees.

The Budget Director/Human Resources Director will receive vacation time, personal time, and sick time as follows:

One (1) year of service	One (1) week vacation
Five (5) years of service	Three (3) weeks' vacation
Five (5) or more years of service	One (1) additional day per year for each year of service past five (5) years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Budget Director/Human Resources Director may carry accrued vacation credit from year to year, if vacation is cancelled at the fault of the City.

Upon retirement, the Budget Director/Human Resources Director shall be allowed to sell back unused personal and vacation time at the Budget Director/Human Resource Director's full current hourly rate. The City may choose to make partial payments towards the sell back amounts as needed, so long as the full value is paid by **ninety (90) days** after the Budget Director/Human Resource Director's retirement date. The Budget Director/Human Resource Director may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

The Budget Director/Human Resource Director will receive **three (3)** personal days per year. If the **three (3)** personal days are cancelled at the fault of the City, she may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour** day shall be granted to the Budget Director/Human Resources Director per month for non-work related illness or injury to the Budget Director/Human Resources Director or member of the Budget Director/Human Resources Director's immediate family. The Budget Director/Human Resources Director will be paid for half of her sick time and half of the sick time will be credited to IMRF at the time of retirement. The amount to be paid shall be at the current rate of the Budget Director/Human Resource Director.

A yearly performance review will be conducted for the Budget Director/Human Resources Director. The performance review will be conducted by a committee chosen by the Mayor.

The Budget Director/Human Resources Director will receive an annual salary increase each year on **May 1st** beginning **May 1st, 2020**. The amount of the annual salary increase will be determined

based on the performance review, but will be at least the cost of living increase or **two percent (2%)**, whichever is greater. The cost of living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT BUDGET DIRECTOR RETIRES, STEPS DOWN, OR IS DEMOTED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT. (Ord. No. 7-2019; 04-08-19)**

(B) **Public Works Director.**

Annual Salary (Effective May 1, 2019) \$86,233.20

The following benefits will be paid to the Public Works Director as part of base salary:

Monthly Stipend: 140.00

Monthly 457 Contribution: 100.00

Insurance Pay: **Seventy-five percent (75%)** of the cost of health insurance premium for the employee plus spouse.

The Public Works Director will have a clothing allowance of **Six Hundred Fifty Dollars (\$650.00)**.

Upon completion of **fourteen (14) consecutive years** of service with the City, in any position, the Public Works Director shall receive, in addition to salary listed above, a longevity pay of **One Hundred Dollars (\$100.00)** per month.

In addition to the longevity amount set forth hereinabove, the Public Works Director shall be paid the following longevity pay amounts which shall be considered part of the base salary attached to their position for all purposes:

Employees with more than **twenty (20)**, but less than **twenty-five (25) years** of service: **twenty percent (20%)** of base pay.

Employees with more than **twenty-five (25)** or more years of service: **twenty-five percent (25%)** of base pay.

Eligible employees shall receive such longevity pay amounts for the first full pay period beginning **May 1** of each year and for the first full pay period beginning after **November 1** of the next successive year and so on thereafter when such longevity shall again be paid to the eligible employees.

The Public Works Director will receive vacation time, personal time, and sick time as follows:

One (1) year of service	One (1) week vacation
Five (5) years of service	Three (3) weeks' vacation
Five (5) or more years of service	One (1) additional day per year for each year of service past five (5) years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Public Works Director may carry accrued vacation credit from year to year, if vacation is cancelled at the fault of the City.

Upon retirement, the Public Works Director shall be allowed to sell back unused personal and vacation time at the Public Works Director's full current hourly rate. The City may choose to make partial payments towards the sell back amounts as needed, so long as the full value is paid by **ninety (90) days** after the Public Works Director's retirement date. The Public Works Director may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

The Public Works Director will receive **three (3)** personal days per year. If the **three (3)** personal days are cancelled at the fault of the City, he may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour** day shall be granted to the Public Works Director per month for non-work related illness or injury to the Public Works Director or member of the Public Works Director's immediate family. The Public Works Director will be paid for half of his sick time and half of the sick time will be credited to IMRF at the time of retirement. The amount to be paid shall be at the current rate of the Public Works Director.

A yearly performance review will be conducted for the Public Works Director. The performance review will be conducted by a committee chosen by the Mayor.

The Public Works Director will receive an annual salary increase each year on **May 1st** beginning **May 1st, 2020**. The amount of the annual salary increase will be determined based on the performance review, but will be at least the cost of living increase or **two percent (2%)**, whichever is greater. The

cost of living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT PUBLIC WORKS DIRECTOR RETIRES, STEPS DOWN, OR IS DEMOTED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT. (Ord. No. 7-2019; 04-08-19)**

(C) **Fire Chief.**

Annual Salary (Effective May 1, 2019) \$79,747.10

The following benefits will be paid to the Fire Chief as part of base salary:

Monthly Stipend: 140.00

Monthly 457 Contribution: 100.00

Insurance Pay: **Seventy-five percent (75%)** of the cost of health insurance premium for the employee plus spouse.

The Fire Chief will have a clothing allowance of **Six Hundred Fifty Dollars (\$650.00)**.

Upon completion of **fourteen (14) consecutive years** of service with the City, in any position, the Fire Chief shall receive, in addition to salary listed above, a longevity pay of **One Hundred Dollars (\$100.00)** per month.

In addition to the longevity amount set forth hereinabove, the Fire Chief shall be paid the following longevity pay amounts which shall be considered part of the base salary attached to their position for all purposes:

Employees with more than **twenty (20)**, but less than **twenty-five (25) years** of service: **twenty percent (20%)** of base pay.

Employees with more than **twenty-five (25)** or more years of service: **twenty-five percent (25%)** of base pay.

Eligible employees shall receive such longevity pay amounts for the first full pay period beginning **May 1** of each year and for the first full pay period beginning after **November 1** of the next successive year and so on thereafter when such longevity shall again be paid to the eligible employees.

The Fire Chief will receive vacation time, personal time, and sick time as follows:

One (1) year of service	One (1) week vacation
Five (5) years of service	Three (3) weeks' vacation
Five (5) or more years of service	One (1) additional day per year for each year of service past five (5) years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Fire Chief may carry accrued vacation credit from year to year, if vacation is cancelled at the fault of the City.

Upon retirement, the Fire Chief shall be allowed to sell back unused personal and vacation time at the Fire Chief's full current hourly rate. The City may choose to make partial payments towards the sell back amounts as needed, so long as the full value is paid by **ninety (90) days** after the Fire Chief's retirement date. The Fire Chief may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

The Fire Chief will receive **three (3)** personal days per year. If the **three (3)** personal days are cancelled at the fault of the City, he may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour** day shall be granted to the Fire Chief per month for non-work related illness or injury to the Fire Chief or member of the Fire Chief's immediate family. Upon retirement, the Fire Chief may sell back all his accumulated and unused sick days to the City at the rate of **one-half (1/2)** of the Fire Chief's rate of pay.

A yearly performance review will be conducted for the Fire Chief. The performance review will be conducted by a committee chosen by the Mayor.

The Fire Chief will receive an annual salary increase each year on **May 1st** beginning **May 1st, 2020**. The amount of the annual salary increase will be determined based on the performance review, but will be at least the cost of living increase or **two percent (2%)**, whichever is greater. The cost of living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT FIRE CHIEF RETIRES, STEPS DOWN, OR IS DEMOTED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT. (Ord. No. 7-2019; 04-08-19)**

(D) **Police Chief.**

Annual Salary: \$85,000.00

The Police Chief must live within the City limits of Herrin. In the event the Police Chief is hired while living outside the City limits of Herrin, upon appointment, he shall have **six (6) months** to relocate to within the corporate City limits.

The following benefits will be paid to the Police Chief as part of base salary:

If the Police Chief opts to not take the City insurance, he shall receive insurance pay as follows: **seventy-five percent (75%)** of the cost of the health insurance premium for the single rate of coverage. This amount is non-pensionable and will be paid on the first pay period of each month.

The following benefits will also be paid:

- \$25,000 Life Insurance Policy
- 457 contribution of \$100 per month (as per the current practice as stipulated in the Police Bargaining Unit contract).

The Police Chief will have a clothing allowance of **One Thousand Dollars (\$1,000.00)**.

The Police Chief, if promoted from within the bargaining unit, shall retain rank and continue to accrue seniority while so acting.

The Police Chief, if removed from his position shall be allowed to return to the bargaining unit while retaining such rank and seniority without interruption.

The Police Chief, if promoted from within, will be able to retain any accrued vacation time, personal days, compensatory time and sick time if applicable. The Police Chief will continue to accrue these specified benefits at the same rate as if they had remained in the FOP bargaining unit per the current practice.

Currently:	One year of service	One-week vacation
	Five years of service	Three weeks' vacation
	Five or more years of service	One additional day per year for each year of service past five years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Police Chief may carry accrued vacation credit from year to year, if vacation is canceled at the fault of the City. The Police Chief shall be allowed to sell back **forty (40) hours** of unused vacation at the current hourly rate. Any requests to sell back unused vacation time shall be made within **thirty (30) days** before or after the Police Chief's employment anniversary date. The City shall have **sixty (60) days** to make payment.

The Police Chief shall receive **three (3) personal days** per year. Such personal days may be taken at any time of the year at the Police Chief's discretion, subject to **twenty-four (24) hour** advance notice and the emergency needs of the department.

Compensatory time may be paid in lieu of overtime payment if the Police Chief in his discretion so elects. Compensatory time will be calculated at the same rate as overtime pay. Comp time shall be granted at such times and in such time, logs as are mutually agreed upon between the Police Chief and a supervisor: Permission to use comp time shall not be unreasonably denied by the supervisor if operational requirements will not be adversely affected. Comp time shall be granted in blocks of that Police Chief's normal tour of duty. The Police Chief will be permitted to accrue compensatory time with a cap of **one hundred fifty (150) hours**, including if he is assigned to the multi-agency drug enforcement unit (SIEG).

Sick leave is as follows: **One (1) eight (8) hour or ten (10) hour** sick day shall be granted to the Police Chief per month for non-work-related illness or injury to the Police Chief or member of the Police Chief's immediate family, as determined by the workday in force at the time. During a **thirty (30) day** period, before or after the Police Chief's employment anniversary, he shall have the right to sell back all or some of the unused sick leave accumulated during the previous year. The amount to be paid shall be at the rate of **fifty percent (50%)** of the Police Chief's current rate of pay. The City shall have up to **sixty (60) days** to make payment.

Upon retirement, the Police Chief shall be allowed to sell back all accrued and unused personal, vacation, or compensatory time at the Police Chief's full current hourly rate. All unused time earned during the last year of service will be paid at the current hourly rate. However, all other accrued unused vacation, personal, or compensatory time will be paid out at the previous year's hourly rate. The City

may choose to make partial payments towards the sell back amounts as needed, so long as the full value is paid by **ninety (90) days** after the Police Chief's retirement date.

The Police Chief will be required to notify the City of his intent to retire prior to the passing of any City Budget containing any portion of his last year's salary, in order to provide the City ample time to find a replacement candidate and ensure that the Police Chief and/or his replacement salaries are properly accounted for within the fiscal year budget.

If eligible, all aspects of the Training Officer classification detailed in Appendix D of the current police bargaining unit contract shall be implemented.

The Police Chief will receive a raise to his annual salary on **May 1st** of each year beginning **May 1, 2021**. This raise shall be at least the cost-of-living increase which shall be based on the Inflation Index as determined by the U.S. Department of Labor, or **two percent (2%)**, whichever is greater.

***IN THE EVENT THE CURRENT POLICE CHIEF RETIRES, STEPS DOWN, OR IS DEMOTED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT. (Ord. No. 26-2020; 07-28-20)**

(E) **Deputy Police Chief.**

Annual Salary: \$80,000.00

The Deputy Police Chief shall maintain their residence within **twenty (20) miles** of the intersection of Walnut Street and Park Ave.

The following benefits will be paid to the Deputy Police Chief as part of base salary:

If the Deputy Police Chief opts to not take the City insurance, he shall receive insurance pay as follows: **seventy-five percent (75%)** of the cost of the health insurance premium for the single rate of coverage. This amount is non-pensionable and will be paid on the first pay period of each month.

The following benefits will also be paid:

- \$25,000 Life Insurance Policy
- 457 contribution of \$100 per month (as per the current practice as stipulated in the Police Bargaining Unit contract).

The Deputy Police Chief will have a clothing allowance of **One Thousand Dollars (\$1,000.00)**.

The Deputy Police Chief, if promoted from within the bargaining unit, shall retain rank and continue to accrue seniority while so acting.

The Deputy Police Chief, if removed from his position shall be allowed to return to the bargaining unit while retaining such rank and seniority without interruption.

The Deputy Police Chief, if promoted from within, will be able to retain any accrued vacation time, personal days, compensatory time and sick time if applicable. The Deputy Police Chief will continue to accrue these specified benefits at the same rate as if they had remained in the FOP bargaining unit per the current practice.

Currently:	One year of service	Two weeks' vacation
	Five years of service	Three weeks' vacation
	Five or more years of service	One additional day per year for each year of service past five years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Deputy Police Chief may carry accrued vacation credit from year to year, if vacation is canceled at the fault of the City. The Deputy Police Chief shall be allowed to sell back **forty (40) hours** of unused vacation at the current hourly rate. Any requests to sell back unused vacation time shall be made within **thirty (30) days** before or after the Deputy Police Chief's employment anniversary date. The City shall have **sixty (60) days** to make payment.

The Deputy Police Chief shall receive **three (3) personal days** per year. Such personal days may be taken at any time of the year at the Deputy Police Chief's discretion, subject to **twenty-four (24) hour** advance notice and the emergency needs of the department.

Compensatory time may be paid in lieu of overtime payment if the Deputy Police Chief in his discretion so elects. Compensatory time will be calculated at the same rate as overtime pay. Comp time shall be granted at such times and in such time, logs as are mutually agreed upon between the Deputy Police Chief and a supervisor: Permission to use comp time shall not be unreasonably denied by the

supervisor if operational requirements will not be adversely affected. Comp time shall be granted in blocks of that Deputy Police Chief's normal tour of duty. The Deputy Police Chief will be permitted to accrue compensatory time with a cap of **one hundred fifty (150) hours**, including if he is assigned to the multi-agency drug enforcement unit (SIEG).

Sick leave is as follows: **One (1) eight (8) hour or ten (10) hour** sick day shall be granted to the Deputy Police Chief per month for non-work-related illness or injury to the Deputy Police Chief or member of the Deputy Police Chief's immediate family, as determined by the workday in force at the time. During a **thirty (30) day** period, before or after the Deputy Police Chief's employment anniversary, he shall have the right to sell back all or some of the unused sick leave accumulated during the previous year. The amount to be paid shall be at the rate of **fifty percent (50%)** of the Deputy Police Chief's current rate of pay. The City shall have up to **sixty (60) days** to make payment.

Upon retirement, the Deputy Police Chief shall be allowed to sell back all accrued and unused personal, vacation, or compensatory time at the Deputy Police Chief's full current hourly rate. All unused time earned during the last year of service will be paid at the current hourly rate. However, all other accrued unused vacation, personal, or compensatory time will be paid out at the previous year's hourly rate. The City may choose to make partial payments towards the sell back amounts as needed, so long as the full value is paid by **ninety (90) days** after the Deputy Police Chief's retirement date.

The Deputy Police Chief will be required to notify the City of his intent to retire prior to the passing of any City Budget containing any portion of his last year's salary, in order to provide the City ample time to find a replacement candidate and ensure that the Deputy Police Chief and/or his replacement salaries are properly accounted for within the fiscal year's budget.

The Deputy Police Chief will receive a raise to his annual salary on **May 1st** of each year beginning **May 1, 2023**. This raise shall be at least the cost-of-living increase which shall be based on the Inflation Index as determined by the U.S. Department of Labor, or **two percent (2%)**, whichever is greater.

***IN THE EVENT THE CURRENT DEPUTY POLICE CHIEF RETIRES, STEPS DOWN, OR IS DEMOTED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT. (Ord. No. 20-2022; 08-22-22)**

(F) **Part Time Officers.** The Mayor is authorized to employ part time police officers. "Part-time" for purposes of this Section shall mean no more than **twenty-seven (27) hours** per week. Part time police officers shall earn the per hour wage on the Tier 2 (0-6 month) current contract pay scale without benefits. **(Ord. No. 39-2020; 10-26-20)**

(G) **Part Time Dispatchers.** The Mayor is authorized to employ part time dispatchers. "Part-time" for purposes of this Section shall mean no more than **twenty-seven (27) hours** per week. Part time dispatchers shall earn the per hour wage on the Tier 2 (0-6 month) current contract pay scale without benefits. **(Ord. No. 39-2020; 10-26-20)**

(H) **Codes Administrator/Inspector.**
Annual Salary \$60,000.00 (effective 09/13/13)
(Ord. No. 28-2023; 09-11-23)

Residency is required within the City Limits of Herrin. Residency is required within **six (6) months** of employment.

The following benefits will also be provided to the Codes Administrator/Inspector:

- Company Cell Phone
- Company Vehicle
- IMRF Pension

The City will provide the single rate of insurance coverage at full cost to the City. If the Codes Administrator/Inspector opts to not take the medical insurance, they will receive **fifty percent (50%)** of the cost of the single rate of insurance coverage in his pay. That payment will be made on the first paycheck of each month. This insurance pay will be a non-pensionable item but will be considered part of his base wage.

The Codes Administrator/Inspector will have a clothing allowance of **Six Hundred Fifty Dollars (\$650.00)**.

The Codes Administrator/Inspector will receive vacation time, personal time, and sick time as follows:

One (1) year of service	One (1) week vacation
Two (2) years of service	Two (2) weeks of vacation
Five (5) years of service	Three (3) weeks of vacation
After five (5) years of service	One (1) additional day per year for each year of service past five (5) years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Codes Administrator/Inspector may carry accrued vacation credit from year to year, if vacation is cancelled at the fault of the City.

Upon retirement, the Codes Administrator/Inspector shall be allowed to sell back unused personal and vacation time at the Code Administrator/Inspector’s full current hourly rate. The City may choose to make partial payments towards the sell back amounts as needed, so long as the full value is paid by **ninety (90) days** after the Codes Administrator/Inspector’s retirement date. The Codes Administrator/Inspector may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

The Codes Administrator/Inspector will receive **three (3)** personal days per year. If the **three (3)** personal days are cancelled at the fault of the City, he may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour** day shall be granted to the Codes Administrator/Inspector per month for non-work-related illness or injury to the Codes Administrator/Inspector or member of the Codes Administrator/Inspector’s immediate family. The Codes Administrator/Inspector will be paid for half of his sick time and half of the sick time will be credited to IMRF at the time of requirement. The amount to be paid shall be at the current rate of the Codes Administrator/Inspector.

The Codes Administrator/Inspector shall be considered probationary for **six (6) months** from the date of hire. The Employer may terminate the Codes Administrator/Inspector without cause during the **six (6) month** probationary period. The Employer will provide a performance review after **sixty (60) days** of the date of hire.

A yearly performance review will be conducted for the Codes Administrator/Inspector. The performance review will be conducted by the Mayor.

The Codes Administrator/Inspector will receive an annual salary increase each year on **May 1st** beginning **May 1st, 2023**. The amount of the annual salary increase will be determined based on the performance review and by the cost-of-living. The raise will be at least **two percent (2%)** but no more than **three percent (3%)**. The cost-of-living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT CODES ADMINISTRATOR/INSPECTOR STEPS DOWN OR IS TERMINATED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT.**

(Ord. No. 19-2022; 07-25-22)

(I) **Deputy City Clerk.**

Annual Salary (Effective May 1, 2019) \$35,000.00

Deputy City Clerk must reside within **ten (10) miles** of the intersection of South Park Avenue and Walnut Street and within Williamson County.

The following benefits will also be provided to the Deputy City Clerk:

IMRF Pension

The City will provide the single rate of insurance coverage at full cost to the City. If the Deputy City Clerk opts to not take the medical insurance, they will receive **fifty percent (50%)** of the cost of the single rate of insurance coverage in their pay. That payment will be made on the first paycheck of each month. This insurance pay will be a non-pensionable item but will be considered part of their base wage.

The Deputy City Clerk will have a clothing allowance of **Six Hundred Dollars (\$600.00)**.

The Deputy City Clerk shall receive an additional **Fifty Dollars (\$50.00)** for attendance at any City meeting.

The Deputy City Clerk will receive vacation time, personal time, and sick time as follows:

One (1) year of service
Two (2) years of service
Five (5) years of service
 After **five (5) years** of service

One (1) week vacation
Two (2) weeks of vacation
Three (3) weeks of vacation
One (1) additional day per year for each year of service past **five (5) years** up to **fifteen (15)** additional days, not to exceed **thirty (30) working days** total

The Deputy City Clerk may carry accrued vacation credit from year to year, if vacation is cancelled at the fault of the City.

Upon retirement, the Deputy City Clerk shall be allowed to sell back unused personal and vacation time at the Deputy City Clerk's full current hourly rate. The City may choose to make partial payments towards the sellback amounts as needed, so long as the full value is paid by **ninety (90) days** after the Deputy City Clerk's retirement date. The Deputy City Clerk may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

The Deputy City Clerk will receive **three (3)** personal days per year. If the **three (3)** personal days are cancelled at the fault of the City, they may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour** day shall be granted to the Deputy City Clerk per month for non-work-related illness or injury to the Deputy City Clerk or member of the Deputy City Clerk's immediate family. The Deputy City Clerk will be paid for half of her sick time and half of the sick time will be credited to IMRF at the time of requirement. The amount to be paid shall be at the current rate of the Deputy City Clerk.

The Deputy City Clerk shall be considered probationary for **six (6) months** from the date of hire. The Employer may terminate the Deputy City Clerk without cause during the **six (6) month** probationary period. The Employer will provide a performance review after **sixty (60) days** of the date of hire.

A yearly performance review will be conducted for the Deputy City Clerk. The performance review will be conducted by the City Clerk.

The Deputy City Clerk will receive an annual salary increase each year on **May 1st** beginning **May 1st, 2025**. The amount of the annual salary increase will be determined based on the performance review and by the cost-of-living. The raise will be at least **two percent (2%)** but no more than **three percent (3%)**. The cost-of-living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT DEPUTY CITY CLERK STEPS DOWN OR IS TERMINATED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT. (Ord. No. 4-2024; 04-23-24)**

(J) **Animal Control Warden I.**

Hourly Rate: \$15.00/hour. Employee must work a 40-hour work week. Time worked over 40 hours per week will be paid at a rate of one and one-half (1 ½) times the normal rate. **(Ord. No. 21-2022; 08-22-22)**

Annual Clothing Allowance: \$600.00

The City will contribute to the IMRF pension fund on behalf of the Animal Control Warden I.

The City will provide the single rate of insurance coverage at full cost to the City. Dependent coverage will be available at the option of the Animal Control Warden I for which the Animal Control Warden I shall pay the full cost.

The Animal Control Warden I will receive vacation time, personal time, and sick time as follows:

One (1) year of service	One (1) week vacation
Two (2) years of service	Two (2) weeks' vacation
Five (5) years of service	Three (3) weeks' vacation
After five (5) years of service	One (1) additional day per year for each year of service past five (5) years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Animal Control Warden I may carry accrued vacation credit from year to year, if vacation is cancelled through no fault of the City.

The Animal Control Warden I will receive **three (3)** personal days per year. If the **three (3)** personal days are cancelled through no fault of the City, they may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour** day shall be granted to the Animal Control Warden I per month for non-work-related illness or injury to the Animal Control Warden I or member of the Animal Control Warden I immediate family. The Animal Control Warden I will be paid for half of their sick time and half of the sick time will be credited to IMRF at the time of requirement. The amount to be paid shall be at the current rate of the Animal Control Warden I.

Upon retirement, the Animal Control Warden I shall be allowed to sell back unused personal and vacation time at the Animal Control Warden I full current hourly rate. The City may choose to make partial payments towards the sellback amounts as needed, so long as the full value is paid by **ninety (90) days** after the Animal Control Warden I retirement date. The Animal Control Warden I may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

The Animal Control Warden I shall be considered probationary for **six (6) months** from the date of hire. The Employer may terminate the Animal Control Warden I without cause during the **six (6) month** probationary period. The Employer will provide a performance review after **sixty (60) days** of the date of hire.

A yearly performance review will be conducted for the Animal Control Warden I. The performance review will be conducted by the Mayor.

The Animal Control Warden I will receive an annual salary increase each year on **May 1st** beginning **May 1st, 2023**. The amount of the annual salary increase will be determined based on the performance review and by the cost of living. The raise will be at least **two percent (2%)** but no more than **three percent (3%)**. The cost-of-living shall be based on the inflation index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT ANIMAL CONTROL WARDEN I STEPS DOWN, OR IS TERMINATED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT. (Ord. No. 17-2022; 07-25-22)**

(K) **Part Time Animal Control Employee.**

Part Time Animal Control employees will be paid **Ten Dollars (\$10.00)** per hour.

Any Part Time Animal Control employee will work no more than **twenty-seven (27) hours** per week.

Any part time Animal Control employee working **twenty-seven (27) hours** per week will receive IMRF pension benefit.

(Ord. No. 22-2019; 10-14-19)

(L) **Animal Control Warden II.**

Hourly Rate: \$14.41/hour. Employee must work a 40-hour work week. Time worked over 40 hours per week will be paid at a rate of one and one-half (1 ½) times the normal rate. **(Ord. No. 21-2022; 08-22-22)**

Annual Clothing Allowance: \$600.00

The City will contribute to the IMRF pension fund on behalf of the Animal Control Warden (II).

The Animal Control Warden (II) shall receive single rate insurance coverage at full cost to the City. Dependent coverage will be available at the option of the Animal Control Warden (II) for which the Animal Control Warden (II) shall pay the full cost.

The Animal Control Warden II will receive vacation time, personal time, and sick time as follows:

One year of service	One-week vacation
Two years of service	Two weeks' vacation
Five years of service	Three weeks' vacation
After five years of service	One additional day per year for each year of service past five (5) years up to fifteen (15) additional days, not to exceed thirty (30) working days total

The Animal Control Warden (II) may carry accrued vacation credit from year to year, if vacation is canceled at the fault of the Animal Control Warden (II).

The Animal Control Warden (II) will receive **three (3) personal days** per year. If the **three (3) personal days** are cancelled through no fault of the Animal Control Warden (II), he may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour day** shall be granted to the Animal Control Warden (II) per month for non-work-related illness or injury to the Animal Control Warden (II) or member of the Animal Control Warden's (II) immediate family. The Animal Control Warden (II) will be

paid for half of his sick time and half of the sick time will be credited to IMRF at the time of retirement. The amount to be paid shall be at the current rate of the Animal Control Warden (II).

Upon retirement, the Animal Control Warden (II) shall be allowed to sell back unused personal and vacation time at the Animal Control Warden’s (II) full current hourly rate. The City may choose to make partial payments towards the sellback amounts as needed, so long as the full value is paid by **ninety (90) days** after the Animal Control Warden’s (II) retirement date. The Animal Control Warden (II) may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

A yearly performance review will be conducted for the Animal Control Warden (II). The performance review will be conducted by a committee chosen by the Mayor.

The Animal Control Warden (II) will receive an annual salary increase each year on **May 1st** of each year beginning **May 1, 2021**. The amount of the annual salary increase will be determined based on the performance review but will be at least the cost-of-living increase or **two percent (2%)**, whichever is greater. The cost-of-living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT ANIMAL CONTROL WARDEN (II) RETIRES, STEPS DOWN, OR IS DEMOTED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT.**

*Effective with the Payroll pay date of **January 7, 2022**, the person(s) in this position shall receive a **One Dollar (\$1.00)** per hour raise. (**Ord. No. 33-2021; 12-27-21**) (**Ord. No. 18-2022; 07-25-22**)

(M) **Public Works Operations Manager.**

Annual Salary: \$60,000.00 (effective 6/23/21)
(Ord. No. 11-2021; 06-14-21)

Residency is required within the City limits of Herrin. Residency is required within **six (6) months** of employment.

The following benefits will also be provided to the Public Works Department Operations Manager:

- Company Cell Phone
- Company Vehicle
- IMRF Pension

The City will provide the single rate of insurance coverage at full cost to the City. If the Public Works Department Operations Manager opts to not take the medical insurance, he will receive **fifty percent (50%)** of the cost of the single rate of insurance coverage in his pay. That payment will be made on the first paycheck of each month. This insurance pay will be a non-pensionable item but will be considered part of his base wage.

The Public Works Department Operations Manager will have a clothing allowance of **Six Hundred Fifty Dollars (\$650.00)**.

The Public Works Department Operations Manager will receive vacation time, personal time, and sick time as follows:

- | | |
|-------------------------------|---|
| One year of service | One-week vacation |
| Two years of service | Two weeks’ vacation |
| Five years of service | Three weeks’ vacation |
| Five or more years of service | One additional day per year for each year of service past five years up to fifteen (15) additional days, not to exceed thirty (30) working days total |

The Public Works Department Operations Manager may carry accrued vacation credit from year to year, if vacation is canceled at the fault of the City.

Upon retirement, the Public Works Department Operations Manager shall be allowed to sell back unused personal and vacation time at the Public Works Department Operations Manager’s full current hourly rate. The City may choose to make partial payments towards the sellback amounts as needed, so long as the full value is paid by **ninety (90) days** after the Public Works Department Operations Manager’s retirement date. The Public Works Department Operations Manager may request the City to delay payments for up to **six (6) months** (for tax or other purposes).

The Public Works Department Operations Manager will receive **three (3) personal days** per year. If the **three (3) personal days** are cancelled at the fault of the City, he may accrue the personal days from year to year.

Sick leave is as follows: **One (1) eight (8) hour day** shall be granted to the Public Works Department Operations Manager per month for non-work-related illness or injury to the Public Works Department Operations Manager or member of the Public Works Department Operations Manager's immediate family. The Public Works Department Operations Manager will be paid for half of his sick time and half of the sick time will be credited to IMRF at the time of retirement. The amount to be paid shall be at the current rate of the Public Works Department Operations Manager.

The Public Works Department Operation Manager shall be considered probationary for **six (6) months** from the date of hire. The Employer may terminate the Public Works Department Operations Manager without cause during the **six (6) month** probationary period. The Employer will provide a performance review after **sixty (60) days** of the date of hire.

A yearly performance review will be conducted for the Public Works Department Operations Manager. The performance review will be conducted by a committee chosen by the Mayor.

The Public Works Department Operations Manager will receive an annual salary increase each year on **May 1st** beginning **May 1, 2021**. The amount of the annual salary increase will be determined based on the performance review but will be at least the cost-of-living increase or **two percent (2%)**, whichever is greater. The cost-of-living increase shall be based on the Inflation Index as determined by the U.S. Department of Labor.

***IN THE EVENT THE CURRENT PUBLIC WORKS DEPARTMENT OPERATIONS MANAGER RETIRES, STEPS DOWN, OR IS DEMOTED, THIS CONTRACT WILL BE REVIEWED AND REVISED AS THE CITY SEES FIT.**

(Ord. No. 21-2021; 10-11-21)

CHAPTER 16 – FRANCHISES

<u>ARTICLE</u>		<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GENERALLY</i>		
	<i>Section 16-1-1</i>	- <i>Ameren Illinois Electric Franchise</i>	<i>16-1</i>
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CHAPTER 16

FRANCHISES

ARTICLE I - GENERALLY

16-1-1 **AMEREN ILLINOIS ELECTRIC FRANCHISE.** The electric franchise agreement between the City of Herrin and Ameren Illinois creating franchise right, permission and authority to construct, reconstruct, excavate for, place, remove, extend, maintain, and operate an electric utility system in the City is hereby included in **Addendum "A"**. (Ord. No. 08-2012; 05-14-02)

16-1-2 **AMEREN ILLINOIS GAS FRANCHISE.** The natural gas franchise between the City of Herrin and Ameren Illinois creating the franchise, right, permission and authority to construct, reconstruct, excavate for, place, remove, extend, maintain, and operate a gas utility system in the City and is hereby included in **Addendum "B"**. (Ord. No. 03-2009; 03-23-09)

ADDENDUM "A"

ELECTRIC FRANCHISE

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF TWENTY (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 HERRIN, COUNTY OF WILLIAMSON AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HERRIN, COUNTY OF WILLIAMSON, 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. 15-56, approved on June 25, 1956. 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 Herrin (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 or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places.

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 roadway within a right-of-way shall be graded, curbed, paved or otherwise changed or when there is a relocation of such right-of-way, 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. Except as expressly stated, nothing in this Section requires the Company to bear responsibility for any costs or expenses to relocate its poles or other equipment for any other reason or cause.

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 \$23,645, 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 - \$41,290; Year 3 - \$58,935; Year 4 - \$76,580; and Year 5 and all remaining years - \$94,225. Municipality may request a revision to the compensation amount after five years from the date of passage of this ordinance if Municipality has a reasonable belief that its population has increased or decreased by 3% or more. Municipality must request the revision at least 60 days prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by 3% or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional five year periods throughout the term of this ordinance.

SECTION 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 prior ordinances relating to the authorization of the Company to construct, operate and maintain an electric utility system in the Municipality are hereby repealed, and this Ordinance shall take precedence over all other ordinances and parts of ordinance in conflict with this Ordinance or with any of its provisions, to the extent of such conflict.

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. 8-2012; 05-14-12)

ADDENDUM "B"

GAS FRANCHISE

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMERENCIPS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE CITY OF HERRIN, COUNTY OF WILLIAMSON AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HERRIN, COUNTY OF WILLIAMSON, 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 AmerenCIPS, its successors and assigns, to construct, operate and maintain a gas utility system within the City as originally authorized by an Ordinance No. 8-79 approved on April 23, 1979. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

SECTION 2. There is hereby given and granted to AmerenCIPS, 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 Herrin (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy and other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places.

SECTION 3. All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere with any pipes, conduits, sewers, drains, pavements or other public improvements existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys and public places of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or apparatus. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

SECTION 4. When any street, avenue, alley, bridge, easement, right of way and/or other public place, upon which or in which any facilities of Company have been placed, shall be graded, curbed, paved or otherwise changed by the Municipality so as to make the resetting or reconstruction of such facilities necessary, Company shall make such necessary change in construction at no cost to Municipality. Should it become necessary or should the Company desire to use conduits or other similar fixtures, Company shall make application to the Municipality for the establishment of permanent grades and such conduits or other similar fixtures shall not be installed until such permanent grades have been established. The Municipality agrees to establish promptly such permanent grades upon such application.

SECTION 5. The rates to be charged by the Company for gas service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction

thereof. All rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

SECTION 6. As a further consideration for the rights, privileges and authorities granted by this ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this ordinance furnish to the said Municipality, annually, compensation in the amount of \$22,600, payable annually, within 30 days of the anniversary date.

SECTION 7. 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 8. 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 9. 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 10. 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 provision shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

SECTION 11. 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 12. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous condition in any street, avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

SECTION 13. 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 14. If, at any time, during the term of this contract, Municipality permits another entity or person to provide gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, the 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 15. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 16. 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. 3-2009; 03-23-09)

CHAPTER 17 – HEALTH REGULATIONS

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CHAPTER 17

HEALTH REGULATIONS

ARTICLE I – GARBAGE DISPOSAL CODE

DIVISION I – RECEPTACLES

17-1-1 **REQUIREMENTS.** Any person using or occupying any building, house or structure within the City shall provide and maintain in good order and repair garbage or trash receptacles of sufficient number to contain the garbage or trash that will accumulate on the premises.

17-1-2 **REMOVAL OF CONTENTS.** It shall be the duty of every owner of a garbage or trash receptacle to remove or to have removed the contents of the same in accordance with this Code at least once a week, excluding weeks that contain national public holidays.

17-1-3 **UNAUTHORIZED REMOVAL OF GARBAGE AND TRASH FROM CONTAINERS.** It shall be unlawful for any person other than duly authorized employee or agent of the City to collect or remove any garbage or trash from garbage and trash receptacles used in the regular City collection service. Nothing in this Code shall be construed as prohibiting haulers from collecting and removing garbage and rubbish from commercial and business establishments or public institutions provided, however, that such haulers are duly licensed per City-ordained requirements.

17-1-4 **SPECIFICATIONS.** Receptacles used for storage or refuse materials shall be watertight and meet the following specifications:

(A) Trash cans of a durable grade of galvanized metal or other suitable material approved by the Superintendent of the public works department, from **five (5)** to **thirty (30) gallons** capacity. They shall be provided with **two (2)** lifting handles on opposite sides and a tightly fitting cover with a lifting handle. The can shall be without inside protrusions, and the refuse shall be loosely packed so that the contents shall discharge freely when the receptacle is inverted.

(B) Refuse bags made of heavy, multiple-ply paper or polyethylene or ethylene copolymer resin and designed for outdoor storage of refuse. Bags must be securely tied or sealed to prevent emission of odors, be of a material so liquids and greases will not be able to penetrate through the material, and be of sufficient thickness and strength to contain the refuse enclosed without tearing or ripping under normal handling.

17-1-5 **DAMAGED OR DETERIORATED RECEPTACLES.** Receptacles which have deteriorated, or have been damaged to the extent that the covers will not fit securely or those having jagged or sharp edges capable of causing injury to refuse collectors or other persons whose duty is to handle containers, are declared a nuisance and shall be condemned by the public works department superintendent, the City codes department or their authorized representatives. If such receptacles are not removed within **five (5) days** after notice of such defective conditions to the owner or user, then such receptacles shall be confiscated.

17-1-6 **PLACEMENT FOR COLLECTION.** Garbage and trash receptacles shall be placed at the alley or boulevard for regular collection service no sooner than the afternoon prior to regular collection service. Refuse and refuse receptacles may be placed on public property in alleys and boulevards for removal by regular collection or special order service only where there is at least **thirteen**

(13) feet or **3.96 meters** of clear passage for public vehicles, but in no case shall refuse or refuse storage containers project more than **two (2) feet** or **0.61 meters** into the alley right-of-way or extend beyond the boulevard. **(Ord. No. 24-99)**

If it is not practicable to collect and remove garbage and trash through alley collection service and thus boulevard service is required, then the owner, occupant, tenant or lessee of the premises shall place his receptacles at such point as the public works supervisor or his designee shall find and designate to be the most accessible for collection and removal.

When alleys or streets become impassable because of inclement weather or other unusual conditions, the public works superintendent may notify residence, public and commercial establishments to place refuse receptacles at the nearest collection point which is accessible to refuse removal vehicles.

17-1-7 PLACING GARBAGE AND TRASH IN RECEPTACLES. Garbage or trash that is mixed with water or other liquids shall be drained before being placed in a garbage or trash receptacle. Animal matter that is subject to decomposition shall be wrapped in paper or other combustible material before being placed in a garbage receptacle. Grease in a free-flowing state shall be reduced to a solid.

17-1-8 PLACING TRASH, BRUSH, CUTTINGS FOR COLLECTION. If trash is of such nature that it cannot be placed in the required trash receptacles it shall be carefully placed beside the trash receptacle in bundles less than **twenty-five (25) pounds** or **11.34 kilograms** in weight. Trash such as paper cartons or wood boxes that cannot be placed in a receptacle shall be prepared for collection by placing the smaller cartons and boxes in the larger cartons and boxes until the larger cartons and boxes are completely filled. After the large cartons and boxes are completely filled, they shall be securely tied. Cartons and boxes shall not be larger than **thirty-six (36) inches** or **91.44 centimeters** along any side so they can be placed in regular collection trucks.

Brush, long stems of bushes, tree limbs and cuttings are ineligible under the City collection service policy and will not be collected. No such brush, stems, limbs, cuttings, or other yard waste are to be placed on the curbs, boulevards or other collection points for collection by the City service.

17-1-9 CERTAIN MATTER NOT TO BE PLACED IN RECEPTACLES. Dead animals, feces, materials impregnated with urine, poisons, explosives, dangerous or corrosive chemicals, clothing taken from persons with infectious diseases, heavy metals or metal parts, lumber, dirt, rocks, bricks, concrete blocks, tires, crates and other refuse from construction or remodeling, shall not be placed in receptacles used for regular collection service. In addition, per **Section 17-1-8**, grass cuttings, bundles of hedge cuttings and other yard waste are not to be placed in receptacles.

17-1-10 UNAUTHORIZED USE OF RECEPTACLES; DUTY OF OWNER, OCCUPANT, TENANT, LESSEE, OR POSSESSOR TO REMOVE REFUSE FROM ADJACENT RIGHT-OF-WAY. It shall be unlawful for any person to place, or permit another to place, any garbage or trash in any receptacle, at any refuse collection point unless the refuse is from the premises served by the container or from the premises at which the receptacle or collection point is located.

The owner, occupant, tenant, lessee, or possessor of any building, house, structure, commercial or public facility, or land shall cause to be removed all refuse items of the nature which are prohibited to the regular collection service, and which are located, owned or deposited on the property or on the public right-of-way adjacent to the property, and the existence of refuse or any other item on the property or the adjacent public right-of-way shall be prima facie evidence that such owner, occupant, tenant, lessee, or possessor failed to remove, as provided by this Code, at his own expense, the refuse or other item or items so stored or located thereon. Removal within **three (3) days** of notice by the City is required.

17-1-11 SUPERVISION OF RECEPTACLES, NOTICE TO REFUSE DISPOSAL DEPARTMENT OF FAILURE TO EMPTY RECEPTACLES. Each owner, manager, occupant, tenant or lessee of a house or building used for residential, business or commercial purposes shall maintain supervision and surveillance over the garbage or trash receptacles serving such premises, and if such receptacles are not emptied and the contents removed by an employee of the City or other duly authorized person or entity for a period of **five (5) days**, he shall notify the public works department of the fact within **five (5) days**.

17-1-12 - 17-1-13 RESERVED.

DIVISION II – COLLECTION

17-1-14 ESTABLISHMENT OF SERVICES. The public works department superintendent shall establish regular collection service for removal of refuse in receptacles or bundles described in **Sections 17-1-4** and **17-1-7**.

17-1-15 REMOVAL OF BULKY ITEMS. The regular collection service is not obligated to remove items such as tires, crates, refrigerators, stoves, air-conditioners, sofas, chairs, pipe, auto parts, mufflers, tree limbs, trees and shrubbery cuttings and other like items of yard waste. The owner, occupant, tenant, lessee, or possessor of any building, house, structure or land shall have these prohibited items removed and deposited in an approved disposal area at his own expense within **seven (7) days** of receipt of notice from the City, or be subject to additional fees as may be imposed under **Chapter 25, Article III** of this Code. (**See Sections 25-3-1 through 25-3-10**) (**Ord. No. 4-2015; 02-23-15**)

17-1-16 FREQUENCY OF REGULAR COLLECTION SERVICE. Regular City collection service shall be provided one time per week for the protection of public health and the control of flies, insects and rodents.

17-1-17 CHARGES FOR UNUSUAL LOCATIONS, TYPES AND ACCUMULATIONS. Refuse collection and disposal service may be provided within the capabilities of the department to installations with unusual locations, types or accumulations of refuse at a charge established by the superintendent based on actual cost. Such service may also be subject to additional fees as may be imposed under **Chapter 25, Article III** of this Code. (**See Sections 25-3-1 through 25-3-10**) (**Ord. No. 4-2015; 02-23-15**)

17-1-18 SIMULTANEOUS SERVICE BY MORE THAN ONE (1) SYSTEM. The public works department shall provide regular collection services according to the type and volume of refuse to be removed, economies of operations and capability within the department. Normally, regular collection service will be provided to the same installation only at the discretion of the public works department superintendent.

17-1-19 EQUIPMENT REGULATIONS. No vehicle shall be operated or moved on any City street or on any City property such vehicle is so constructed or loaded as to prevent any of its load

from dropping, shifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

17-1-20 **LOAD COVERING.** No individual, person, firm or corporation shall operate on any City street or City property, any vehicle with any load unless the load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose or detached in any manner so as to become a hazard to the usefulness of the highway.

17-1-21 - 17-1-22 **RESERVED.**

DIVISION III – SERVICE AND FEES

17-1-23 **SERVICE TO RESIDENTIAL CUSTOMERS.** Residential customers of the City are to be served by the City garbage collection service. All collections will be made from a place easily accessible to the street from which the collections are made. Collections will not be made from inside structures or enclosures. Collection is limited to household garbage only.

The following items are not eligible for pick up: grass cuttings, hedge and tree trimmings, and “white goods”, as defined by IEPA regulations.

Each household shall be limited to a maximum of **ten (10) bags**, or the equivalent, for each collection. Only containers up to and including **thirty (30) gallon** capacity will be eligible for pick up.

17-1-24 **BILLING; DISCONNECTION OF WATER FOR FAILURE TO PAY BILL.** The charges fixed by the City Council for the collection, removal and disposal of all garbage or trash shall be fixed by a separate City ordinance.

17-1-25 **CONTRACTING OUT.** The City reserves the right to contract out with other municipalities or private agencies for the services provided hereunder. The City may exercise said right to contract out without notice. The City may enter into a contract of limited or indefinite duration, solely at the option of the City Council.

17-1-26 **DISPOSAL OF SOLID WASTE: NON-HAZARDOUS.** All citizens, inhabitants and entities residing within the corporate limits of the City of Herrin, Illinois, shall use the Transfer Station as the exclusive method of disposing of all non-hazardous solid waste generated or located within the City of Herrin, Illinois.

17-1-27 **TRASH COLLECTION FEE.** The fee for trash collection and disposal service for each residential customer within the corporate limits of the City shall be **Nineteen Dollars Seventy-Five Cents (\$19.75)** per month, effective starting the **January 2018** billing cycle. Residents age **sixty-five (65)** and over may apply for a **ten percent (10%)** discount which is **One Dollar Ninety-Seven Cents (\$1.97)** per month off of their trash collection fee. **(Ord. No. 36-2017; 12-11-17)**

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CHAPTER 18

HOUSING CODE

ARTICLE I – GENERAL PROVISIONS

18-1-1 **PURPOSE.** Pursuant to the authority delegated to municipalities by numerous provisions of State Law, this Code establishes a comprehensive set of minimum standards relating to the condition and maintenance of all dwellings in this Municipality. These regulations are intended to preserve, protect, and promote public health, safety, comfort, and general welfare. More specifically, they are intended to assist in achieving the following objectives:

- (A) To preserve sound existing housing and to upgrade or eliminate substandard housing throughout this Municipality;
 - (B) To prevent overcrowding hazards, energy waste, unsanitary conditions, and vermin infestation in all dwellings;
 - (C) To preserve or increase the municipal tax base by arresting - and ultimately, reversing - the spread of blight;
 - (D) To enhance the appearance and public image of Municipality;
 - (E) To delineate the responsibilities of the owners and occupants of all dwelling units;
- and
- (F) To establish fair and efficient procedures for the administration and enforcement of this Code.

18-1-2 **APPLICABILITY.** This Code shall be applicable, in pertinent part, to the following:

- (A) Every single-family dwelling, including every mobile home;
- (B) Every two-family or multiple-family dwelling and every dwelling unit therein;
- (C) Any accessory structure associated with any of above; and
- (D) The lot on which any of the above is located.

This Code shall be applicable retroactively and, except as specifically provided otherwise, the fact that any dwelling existed prior to the effective date of this Code or was built in compliance with ordinances in force at the time of construction shall not be a valid defense in any proceeding related to the enforcement of this Code.

18-1-3 **INTERPRETATION, CONFLICT WITH OTHER CODES.** Every provision of this Code shall be construed liberally in favor of this Municipality, and every requirement imposed herein shall be considered minimal. If any provision of this Code is found in direct conflict with another municipal ordinance or with State law, the more stringent provision shall prevail.

(A) **Relationship to Zoning Code.** This Code shall not be interpreted as permitting the construction of a dwelling or the continuation or alteration of a non-conforming use except in compliance with the Zoning Code.

(B) **Relationship to Building, Plumbing, Electrical Codes.** Any construction or remodeling work that may result from the enforcement of this Code shall be carried out in compliance with any Building, Plumbing, or Electrical Code adopted by this Municipality.

18-1-4 **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or Code, no officer, board member, agent, or employee of this Municipality shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code. **(See "Local Governmental and Governmental Employees Tort Immunity Act," 745 ILCS 10/1-101.)**

(B) Any suit brought against any officer, board member, agent, or employee of this Municipality, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the Municipal Attorney until the final determination of the legal proceedings.

ARTICLE II - DEFINITIONS

18-2-1 CONSTRUCTION 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 meaning respectively ascribed to them in **Section 18-2-2**; terms not defined in **Section 18-2-2** shall have the meanings respectively ascribed to them in the Zoning Code or Building, Plumbing, or Electrical Code of this municipality; if any term is not defined either in **Section 18-2-2** or in such Code, said term shall have its standard English dictionary meaning.

(B) See "**Definitions**" in **Chapter 1**, City Code and Zoning Code.

(C) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(D) A general term that follows or is followed by enumeration of specific terms shall not be limited to the enumerated class unless expressly limited.

18-2-2 SELECTED DEFINITIONS.

"Accessory Structure". Any structure or exterior appurtenance subordinate to the dwelling and located on the same lot.

"Administrator". The official appointed by the Mayor/President and approved by the Council/Board of Trustees to administer this Code, or his duly authorized representative.

"Basement". (See Zoning Code Chapter 40)

"Bathroom". A room in a dwelling unit that affords privacy to the user and contains a flush toilet, a tub or shower, and a lavatory.

"Crawl Space". In a dwelling without a basement, the area between the ground and the underside of the floor.

"Dwelling Unit". One (1) or more rooms designed or used as living quarters by one (1) family. A "dwelling unit" always includes a bathroom and a kitchen.

"Dwelling". A building that contains **one (1)** or more dwelling units. As used in this Code, the term "dwelling" includes all dwelling units located therein.

"Extermination". The control and elimination of rodents, insects, and other pests by poisoning, fumigating, trapping, etc., or by eliminating their food supply and harborage places.

"Family". An individual; or **two (2)** or more persons related by blood, marriage, or adoption; or not more than **three (3)** unrelated persons (excluding servants) maintaining a common household.

"Floor Area, Gross". The gross horizontal area of a room or other enclosed space, generally expressed in square feet.

"Garbage". Animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

"Habitable Room". A room or enclosed floor space (in a dwelling unit) arranged for living, eating, or sleeping purposes. The term "habitable room" includes kitchens, but excludes bathrooms, closets, hallways, pantries, etc.

"Infestation". The presence on residential premises of insects, rodents, or other vermin.

"Kitchen". A room or area used primarily for the preparation of food, and containing a sink, stove, and refrigerator.

"Lead Paint". As set forth in State Law (**410 ILCS 45/2**), "lead paint" means any paint or other surface coating material containing more than **one-half of one percent (0.5%)** lead by weight in the total nonvolatile content of liquid paint, or such lower standard as may be adopted by the Illinois Department of Public Health.

"Mobile Home". (See Chapter 23, City Code)

"Mobile Home Stand". (See Chapter 23, City Code)

"Occupancy Permit". A permit issued by the Administrator to allow occupancy of a dwelling. The permit indicates that the Administrator has determined by inspection that the dwelling and proposed occupancy conform to the requirements of this Code.

"Occupancy Permit, Temporary". A short-term permit issued by the Administrator to allow occupancy of a non-complying dwelling while repairs are in progress.

"Occupant". The family maintaining a household in the dwelling unit in question.

"Ordinary Maximum Summer Conditions". The temperature **fifteen degrees Fahrenheit (15°F.)** below the highest recorded temperature for the previous **ten (10) year** period.

"Overcrowding". The condition of having more occupants in a dwelling unit than is permitted by the minimum habitable space standards in this Code.

"Owner". The owner or owners of the freehold of the premises or lesser estate therein; a mortgagee or vendee in possession; assignee of rents; receiver; executor; trustee; lessee or other person, firm, or corporation having meaningful control of a building or premises; or their duly authorized agents.

"Premises, Residential". A dwelling and all yards and accessory structures associated therewith.

"R" Value". A measure of the resistance to heat transfer achieved by insulation of a particular type as installed.

"Skirting". The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

"Smoke Alarm System". Any warning device or series of devices which, when properly installed in a dwelling, sounds an alarm when smoke in said dwelling reaches a level indicative of a potentially dangerous fire.

"Structure". Anything constructed or erected on the ground or attached to something having a fixed location on the ground.

"Trash". Garbage plus other solid wastes such as paper, cardboard, tin cans, bottles, yard clippings, and similar materials.

"Vermin". Any objectionable insects, rodents, or other animals such as roaches, rats, mice, etc.

"Weatherstripping". Strips of felt, metal, or other material applied to loose-fitting windows and doors to prevent the entry of outside air into the dwelling.

"Yard". Open space on the same lot as the dwelling.

ARTICLE III - STRUCTURAL AND MAINTENANCE REQUIREMENTS

18-3-1 **FOUNDATIONS, EXTERIOR WALLS, ROOFS.** The foundation, exterior walls, and roof of every dwelling shall be structurally sound, substantially watertight, and protected against rodents.

(A) **Foundation, Supports.** The foundation shall adequately support the dwelling at all points. Similarly, all structural members shall be capable of carrying normally-imposed loads.

(B) **Exterior Walls, Projections.** All exterior walls shall be free of deterioration, holes, cracks, loose or rotting boards, or any other condition that might admit rain, dampness, or vermin to the interior portions of the walls. All cornices, molding, lintels, pediments, and similar projections shall be securely attached and without dangerous cracks or other defects.

(C) **Roofs, Gutters.** The roof of every dwelling shall be free of defects that would admit rain or impede rainwater runoff. Gutters shall be properly attached to the roof, and downspouts shall be securely fastened to the gutters and to the exterior walls.

(D) **Chimneys.** Every chimney and chimney flue shall be properly installed and maintained in safe working condition.

(E) **Insulation.** To conserve energy, attics and exterior walls shall be insulated to "R" values of 19 and 13 respectively in a manner approved by the Administrator. The insulating material used (mineral wool, fiberglass, etc.) shall be resistant to fire, moisture, and vermin. [For additional requirements pertaining to energy conservation, see **Sections 18-3-6(D); 18-3-7(C)**]

18-3-2 **INTERIOR WALLS, CEILINGS, FLOORS.** All interior walls, ceilings, and floors shall be structurally sound, in good repair, clean, and adequately protected against the passage and harborage of vermin.

(A) **Floors.** All floors shall be capable of supporting normally imposed loads, and shall be free of holes; cracks; or loose, warped, protruding, or rotting floor boards. Every bathroom floor surface shall be substantially impervious to water and easily maintainable in a clean and sanitary condition.

(B) **Interior Walls, Ceilings.** Every interior wall and ceiling shall be free of holes or cracks. Plaster, paint, and all other surface materials shall be reasonably smooth, tight, and easily cleanable.

18-3-3 **LEAD PAINT PROHIBITED.** The presence or application of lead bearing paint as defined by State Law (**410 ILCS 45/2**) is hereby prohibited:

(A) On or to any exposed surface of any dwelling; or

(B) On or to any fixtures or other objects used, installed, or located on any exposed surface of a dwelling, or intended to be so used, installed, or located and which, in the ordinary course of use, are accessible to and chewable by children.

18-3-4 **BASEMENTS.** Basements and crawl spaces shall be maintained free from dampness that contributes to structural deterioration. Water shall not be permitted to stand on the floor. All slab drains shall be covered with grating, and all sewer connections shall be properly trapped. Basements shall be maintained free from accumulations of trash.

18-3-5 **STAIRWAYS AND PORCHES.** Every interior and exterior stairway and every porch or similar feature shall be structurally sound and properly maintained.

(A) **Railings.** Every flight of stairs more than **four (4) risers** high shall have at least **one (1) railing** not less than **two and one-half (2 1/2) feet** high, measured vertically from the nose of the tread to the top of the railing; and every porch, balcony, or deck more than **four (4) risers** above the ground shall have railings at least **two and one-half (2 1/2) feet** (measured from the floor

to the top of the railing) extending around it. Railings shall be securely fastened, properly maintained, and capable of bearing normally imposed loads.

(B) **Stairs Structurally Sound.** No flight of stairs shall have settled more than **one (1) inch** out of its intended position; or have pulled away from supporting or adjacent structures; or have rotting, loose, or deteriorating supports. All treads and risers shall be uniform in width and height. Every stair tread shall be strong enough to support a concentrated load of at least **four hundred (400) pounds** without danger of breaking.

(C) **Porch Floors and Supports.** The floor of any porch, balcony, or deck shall be free of holes; cracks; or loose, warped, protruding, or rotting floorboards. The structural supports of any such feature shall be capable of carrying normally imposed loads.

18-3-6 WINDOWS AND DOORS.

(A) **Windows.** Every window sash shall fit reasonably tightly within its frame and be fully supplied with glass panes (or an approved substitute) that are without cracks or holes. Every window other than a fixed window shall be easily openable and shall be held in position by window hardware.

(B) **Doors.** Every exterior door, when closed, shall fit reasonably well within its frame. Every door available as an exit shall be capable of being opened from the inside easily and without the use of a key.

(C) **Window/Door Frames.** Every window or door frame shall be constructed and aligned with adjacent walls so as to exclude rain and wind from the dwelling interior as completely as possible.

(D) **Weatherstripping, Caulking.** To conserve energy, loose-fitting windows and doors shall be weather-stripped in a manner approved by the Administrator. Similarly, to reduce warm air leakage and cold air infiltration, cracks around window and door frames shall be caulked as directed by the Administrator. **(See also, Secs. 18-3-1, 18-3-7(C))**

(E) **Basement Hatchways.** Every basement hatchway shall be constructed and maintained so as to prevent rodents or rain/surface runoff from entering into the dwelling.

18-3-7 SCREENS AND STORM WINDOWS.

(A) **Rodent Screens.** In order to prevent the entry of rodents, every openable basement window shall be supplied with a heavy wire or hardware cloth screen of not less than **four (4) mesh per inch** that fits tightly and is securely fastened to its frame.

(B) **Insect Screens.** From **May 15 to October 1** of each year, every window or other opening used for ventilation and every door opening directly to the outdoors shall be supplied with a screen of not less than **sixteen (16) mesh per inch**; provided, however, that no screens shall be required for a dwelling unit located above the **fourth (4th) story** except under circumstances of unusually heavy insect prevalence as determined by the Administrator. Every screen door shall have a self-closing device in good working condition.

(C) **Storm Window and Doors.** In order to conserve energy, every window and every door opening directly to the outdoors shall be supplied with a storm window or door:

1. From **November 1 to April 1** of each year in the case of dwellings without air conditioning; or
2. Throughout the calendar year in the case of air-conditioned dwellings.

Provided that this subsection shall not apply to dwellings equipped with insulated (e.g., thermopane) windows. **[See also, Secs. 18-3-1(E), 18-3-6(D)]**

18-3-8 INTERIOR SANITATION. The occupant shall maintain the interior of his dwelling unit in a clean and sanitary condition, free from vermin and any accumulation of trash. (Trash accumulating between collections shall be stored in containers required by **Section 18-3-10**). In multiple-family dwellings, the owner shall be responsible for keeping the shared/public areas clean. **(See Chapter 25)**

18-3-9 **EXTERMINATION.** Any necessary extermination work shall be conducted in a manner protective of human health and, after the work is completed, adequate measures to prevent reinfestation shall be taken. In multiple-family dwellings, the tenant shall be responsible for the elimination of rodents and other vermin from that part of the premises under his exclusive control; but when more than **one (1) dwelling unit** is infested at the same time, the dwelling owner shall be responsible for the extermination work.

18-3-10 **TRASH CONTAINERS.**

(A) **Container Specifications.** The owner or occupant of every dwelling unit shall provide and maintain in good condition a sufficient number of trash containers for the temporary storage of all trash accumulating between collections. The standard trash container required by this Code shall be a receptacle of not less than **fifteen (15)** nor more than **thirty (30) gallon** capacity, of impervious material and sturdy construction, with a tight fitting cover, and equipped with handles properly placed to facilitate handling. The container must not have any interior protrusions which hinder the free discharge of the contents. The combined weight of the contents and container shall not exceed **fifty (50) pounds**. **Fifty-five (55) gallon** barrels or oil drums are not approved containers.

(B) **Multiple-Family Dwellings.** In multiple-family dwellings and apartment complexes, the owner shall provide:

1. At least **one (1) standard trash container** for every **two (2) occupants**; or
2. Such number of **one and one-half (1 1/2) cubic yard** metal containers equipped for mechanical dumping (dumpsters) that the total capacity thereof equals or exceeds the capacity required under paragraph (a). In the case of multiple-family dwellings erected after the effective date of this Code, dumpsters (rather than standard trash containers) shall be mandatory.

18-3-11 **ACCESSORY STRUCTURES.** Structures accessory to dwellings include, but are not limited to, porches, decks, stoops, garages, carports, sheds, and fences.

(A) **Maintenance, Removal.** All accessory structures shall be structurally sound, currently functional, and maintained in good repair and alignment. The owner shall remove any accessory structure that serves no useful purpose and is deteriorated beyond economical repair.

(B) **Obstructions, Vermin Harborage.** Accessory structures shall not block light and air from any dwelling unit, obstruct access to any dwelling unit, or provide harborage for vermin.

18-3-12 **YARDS.**

(A) Every yard shall be properly graded and drained to prevent the accumulation of stagnant water.

(B) All exterior property and premises shall be maintained free from the accumulation of rubbish, trash and garbage, which includes lumber and other building materials unless it is stacked on elevated racks to prevent harborage to vermin, and discarded furniture and appliances, tools and toys.

(C) All garbage shall be properly stored in approved leak proof covered containers, which shall be stored at the side or rear of the structure, except for the period the containers are placed at the curb for garbage collection. Open containers and barrels are prohibited. Trash containers of any kind or type are prohibited from being located in the front yard. Plastic trash bags are prohibited unless properly placed in an approved covered container. It is permissible, however, to place plastic bags next to the curb on trash collection days.

(D) Property owners and residents are responsible to clean up any trash and garbage that becomes scattered in another's yard.

(E) On corner lots, in the triangular portion of land bounded by the street lines of the lot and a line joining the **two (2)** points, each of which is on **one (1)** street line and **thirty (30)**

feet from the point of the intersection, the owner or occupant shall keep all vegetation trimmed so that it does not extend more than **two (2) feet** above ground level, provided however, this restriction shall not apply to trees having a trunk diameter of **two (2) inches** or more when measured **twelve (12) inches** above ground. **(Ord. No. 45-2003; 08-25-03)**

18-3-13 BOARDING UP. Whenever the glass in any window, glazed exterior door, exterior transom, or skylight is broken, the owner shall promptly remove the broken glass from the premises and temporarily board-up the affected openings in order to prevent accidents, provide protection from the elements, keep out animal pests, and provide security to the occupants or contents of the dwelling unit. Since the presence of sloppily boarded-up buildings invites vandalism and creates a blighting influence, all boarding-up of exterior openings shall be accomplished in a neat, workmanlike manner using not less than **one-half (1/2) inch thick** weather-resistant plywood cut to fit within openings, fastened in place as securely as possible, and suitably coated with a color that blends with the exterior colors of the building as inconspicuously as possible.

The Administrator shall notify the owner or his agent of any boarded-up dwelling unit(s) not complying with these requirements and shall allow him not more than **ten (10) working days** from the date of notice in which to replace the broken glass or to repair, replace or paint the boarding.

ARTICLE IV - ROOM AND OCCUPANCY REQUIREMENTS

18-4-1 **OVERCROWDING PROHIBITED.** The minimum total gross floor area of the habitable rooms of every dwelling unit shall be:

- (A) **Two hundred fifty (250) square feet** for the first occupant; plus
- (B) **One hundred fifty (150) square feet** for the second occupant; plus
- (C) **One hundred (100) square feet** per additional occupant over **two (2) occupants**.

18-4-2 **BEDROOMS.** Every room used primarily for sleeping purposes shall meet the following requirements:

- (A) **Minimum Floor Area.** The minimum gross floor area shall be:
 - (1) In the case of a bedroom used for sleeping by only **one (1) person**, **seventy (70) square feet**.
 - (2) In the case of a bedroom used for sleeping by **two (2)** or more persons, **fifty (50) square feet** per person.

In calculating the floor area of attic or top half-story bedrooms, only those portions of the floor over which the ceiling is at least **five (5) feet high** shall be counted.

(B) **Minimum Dimensions.** No bedroom floor shall be less than **seven (7) feet** in length or width.

(C) **Access to Bathroom.** Every bedroom shall have access to at least **one (1) bathroom**. Except in the case of existing single-family dwellings without ledgers, said required access shall not necessitate passage through another bedroom.

(D) **Closets.** Every bedroom shall have at least **five (5) square feet** of closet space opening into the bedroom.

18-4-3 **KITCHENS.** Every dwelling unit shall include a kitchen which may be either a separate room or portion of a multi-purpose room. Every kitchen shall include, at a minimum, the following equipment:

(A) **One (1) sink** in good working condition that provides at all times an adequate amount of heated and unheated running water under pressure, and that is properly connected to the sewage disposal system;

(B) **One (1) stove** (or similar device) for cooking food, properly installed for safe and efficient operation. Portable cooking equipment employing flame and the use of liquid fuel is prohibited; and

(C) **One (1) refrigerator** (or similar device) for the safe storage of food at temperatures less than **fifty degrees (50°F) Fahrenheit** but more than **thirty-two degrees (32°F) Fahrenheit** under ordinary maximum summer conditions, properly installed and connected for safe, sanitary and efficient operation.

18-4-4 **BATHROOMS.** Every dwelling unit shall contain at least **one (1) bathroom** that affords privacy to the individual using it. Every required bathroom shall be equipped with a flush toilet, tub or shower, and lavatory basin. All these fixtures shall be in good working condition, and properly connected to the water system and to the sewage disposal system. Every lavatory basin and bathtub/shower shall be capable of providing at all times an adequate amount of heated and unheated running water under pressure.

Any dwelling occupied by **seven (7)** or more individuals shall be equipped with at least **two (2) toilets** and **two (2) lavatory basins**.

18-4-5 BASEMENT ROOMS. No room in any basement shall be counted to satisfy the minimum room and space requirements of this Article unless such basement room conforms to every pertinent regulation of this Code, and is constructed in such a manner that:

- (A) The required minimum window area (**see Sec. 18-4-7**) is entirely above ground level; and
- (B) Moisture cannot seep through the floor or walls.

18-4-6 CEILING HEIGHT. The clear ceiling height in all habitable rooms shall be at least **seven feet four inches (7'4")**, except that in attic rooms or top half-stories the ceiling height shall be at least **seven (7) feet** over not less than **one-third (1/3)** of the area used for sleeping, study, or similar activity.

18-4-7 NATURAL LIGHTING. Every habitable room except the kitchen shall have a window, skylight, or other means of transmitting natural light from outdoors. As used in this Section, the term "**window**" includes all such means. The total clear glass area of such window(s) shall be at least **ten percent (10%)** of the floor area of the room **ten (10) square feet**, whichever is greater.

18-4-8 VENTILATION.

(A) **Rooms.** Except as specifically provided otherwise below, every habitable room shall be adequately ventilated either naturally or by a mechanical ventilation system approved as to type and installation by the Administrator.

Natural ventilation shall be deemed adequate when the total area through which outside air can flow into the room by acceptable means equals at least **forty-five percent (45%)** of the total clear glass area required for natural light. (**See Sec. 18-4-7**). Acceptable means of natural ventilation include windows, louvers, monitors, or other direct openings to the outdoors, but not doors.

(B) **Small Kitchens.** A kitchen less than **seventy (70) square feet** in floor area that is without either a mechanical ventilation system or a direct opening to the outdoors shall nonetheless be considered adequately ventilated if there is an opening at least **thirty-two (32) square feet** in area between the kitchen and another room in the same dwelling unit that has adequate natural ventilation.

(C) **Bathrooms.** Every bathroom shall be adequately ventilated by **one (1)** or more of the following means:

1. Natural or mechanical ventilation as set forth above; or
2. A gravity vent flue having a total clear area equal to at least **five percent (5%)** of the floor area of the bathroom or **one hundred twenty (120) square inches**, whichever is greater. Gravity vent flues shall be constructed of incombustible material and shall be provided with a weather cap, directional vane, or rotary type ventilation on the roof.

18-4-9 EGRESS REQUIREMENTS. Every dwelling unit shall have at least **one (1)** unobstructed means of egress that leads to a public street or alley either directly or through a court or yard. Every dwelling unit located on the **third (3rd)** or higher story shall have at least **two (2)** such exits. Passage to a dwelling unit's exit(s) shall not lead through any other dwelling unit or through a space that might reasonably be locked by anyone who is not a member of the household. Provided that dual egress shall not be required in structures that are of fireproof construction as defined in the Municipal Building Code.

18-4-10 CONNECTION TO COMMERCIAL USE PROHIBITED. No habitable room and no bathroom that is accessory to a dwelling unit shall open directly into or be used in conjunction with any commercial establishment or professional's office.

ARTICLE V - BASIC FACILITIES

18-5-1 **ELECTRICAL SYSTEM.** In every dwelling unit, every electrical outlet, switch, and fixture - whether required or not shall be installed, maintained, and connected to the source of electric power in accordance with the provisions of the Building or Electrical Code adopted by this Municipality.

(A) **Minimum Service.** Every dwelling unit shall have a main electrical service of at least **one hundred (100) amperes.**

(B) **Lighting.** Every bathroom and kitchen, every hallway and stairway, and every laundry area, furnace room, or every similar non-habitable workspace shall contain at least **one (1)** working ceiling or wall lighting fixture. In multiple-family dwellings, every shared/public hall and stairway shall have a minimum of **five (5) footcandles** of daylight or electric illumination at all times.

(C) **Convenience Outlets.** Every habitable room shall contain at least **two (2)** separate and remote wall-type electric convenience outlets. Every bathroom and laundry area shall contain at least **one (1)** working grounded-type convenience outlet.

18-5-2 **ELECTRICAL HAZARDS.** In determining whether the electrical system of any dwelling unit is hazardous to the occupants (and thus in violation of this Code), the Administrator shall consider the size of the dwelling unit, the number of occupants, and the occupants' usage of appliances and equipment. The electrical system of a dwelling unit may be found hazardous due to any of the following conditions:

- (A) Insufficient amperage;
- (B) Improper fusing, wiring, or installation;
- (C) Improper or inadequate grounding of the system or parts thereof;
- (D) The presence of loose, hanging, frayed, or bare wires;
- (E) The use of extension cords except for short-term purposes;
- (F) Insufficient outlets or fixtures;
- (G) The presence of conductor supported pendant switches or light;
- (H) The presence of flush or semi-flush mounted floor convenience outlets, lacking approved waterproof covers; or
- (I) General deterioration of the system or parts thereof.

18-5-3 **HEATING.**

(A) **Generally.** Every dwelling unit shall be served by acceptable, properly installed heating facilities in good working condition. "**Good working condition**" means that the heating facilities can safely heat all habitable rooms and bathrooms within said dwelling unit to a temperature of at least **sixty-eight degrees (68°F) Fahrenheit** when the temperature outdoors is **zero degrees (0°F) Fahrenheit**. "Acceptable" heating facilities do not include appliances designed primarily for cooking or water heating purposes, or portable heating equipment employing flame.

(B) **When Landlord Must Provide Heat.** Every landlord or any apartment building or other multiple-family dwelling or rents any dwelling unit(s) on terms, either expressed to furnish heat to the tenants or occupants thereof manager of who leases or implied, shall, at a minimum, act as follows:

Between **October 1 and May 15** of each year he shall maintain in the habitable rooms a temperature of at least **sixty-eight degrees (68°F) Fahrenheit** between **6:00 a.m. and 11:00 p.m.** of each day, and a temperature of not less than **sixty degrees (60°F) Fahrenheit** during the other hours of the day; except that when the outside temperature drops below **zero degrees (0°F) Fahrenheit** and the heating plant is operating at its full capacity, a minimum inside temperature of **sixty degrees (60°F) Fahrenheit** shall be maintained at all times.

18-5-4 WATER HEATING FACILITIES.

(A) **General.** Every dwelling unit shall be served by water heating facilities that are properly installed and connected to the building's hot water lines and maintained at all times in safe operating condition. The water heating facilities shall be capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, bathroom sink, and bathtub or shower at a temperature of not less than **one hundred twenty degrees (120°F) Fahrenheit** even when the space heating facilities required by **Section 18-5-3** are not in operation.

(B) **When Landlord Must Provide Hot Water.** Every landlord or manager of any apartment building or other multiple-family dwelling who leases or rents **one (1)** or more dwelling unit(s) on terms, either expressed or implied, to furnish hot water to the tenants or occupants thereof shall provide an adequate amount of water at all times at every kitchen sink, bathroom sink, and bathtub or shower at a temperature of not less than **one hundred twenty degrees (120°F) Fahrenheit**.

18-5-5 PLUMBING GENERALLY. In every dwelling unit every sewer line, water line, plumbing fixture, vent, and drain shall be properly installed, and maintained free from obstructions, leaks, or defects so as to prevent structural deterioration or health hazards. All repairs and installations shall be made in conformity with the Building and Plumbing Code adopted by this Municipality.

18-5-6 FIRE PROTECTION EQUIPMENT.

(A) **Smoke Alarms.** Every dwelling unit shall be equipped with a properly installed smoke alarm system of the type approved by the Municipal Fire Chief.

(B) **Fire Extinguishers in Mobile Homes.** As required by State Law (**210 ILCSC 115/9.9**) every mobile home shall be equipped with **two (2)** working fire extinguishers, **one (1)** in each end of the home. (**See also, Sec. 3-11.**) (**See Chapter 23**)

ARTICLE VI - ADMINISTRATION AND ENFORCEMENT

18-6-1 ENFORCEMENT OFFICER, DUTIES. The Code Enforcement Officer, referred to herein as the Administrator, is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) To inspect dwellings, accessory structures, and residential premises in accordance with **Section 18-6-2.**
- (B) To take appropriate actions to correct violations of this Code.
- (C) To review and pass upon applications for occupancy permits and temporary occupancy permits;
- (D) To maintain up-to-date records of all matters pertaining to the administration and enforcement of this Code;
- (E) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the Corporate Authorities at least once each year;
- (F) To provide information to the general public on matters related to this Code;
- (G) To perform such other duties as the Corporate Authorities may from time to time prescribe.

18-6-2 INSPECTIONS. Pursuant to properly filed complaints or on his own initiative, the Administrator may inspect dwellings, accessory structures, and residential premises as often as reasonably necessary to insure compliance with the provisions of this Code.

- (A) Whenever the Administrator considers it reasonably necessary or desirable to have such inspections made by another department of this Municipality, he shall arrange for this to be done in such a manner that the owner or occupants are not subjected to numerous inspections or to multiple or conflicting correction orders.
- (B) The owner or occupant shall give the Administrator free access to the premises at any reasonable time upon display of proper identification in order to allow him to perform his duties under this Code.

18-6-3 OCCUPANCY PERMITS.

(A) It shall be unlawful for any owner or agent to allow a person to occupy any dwelling unit prior to an inspection and the issuance of an occupancy permit. All properties shall be inspected at the time application for water service is made and the Codes Inspector shall inspect all properties to determine if the dwelling complies with all provisions of this Code and International Property Maintenance Code, as adopted by the City of Herrin in **Chapter 5, Section 5-1-1.** If a dwelling fails to comply with the property maintenance provisions, the occupancy permit shall not be issued, and the owner shall be given a list of items to be corrected. The fee for inspection shall be **Twenty-Five Dollars (\$25.00)**. In the event the property owner or agent is not available at the scheduled time for the inspection, a re-inspection fee of **Twenty-Five Dollars (\$25.00)** shall be imposed.

(B) The Codes Inspector may issue a Temporary Occupancy Permit which will permit occupancy during the period the repairs are being made. A temporary occupancy permit shall be valid for a period of **thirty (30) days** and may not be renewed. **(Ord. No. 26-2015; 08-10-15)**

18-6-4 PERMIT REQUIRED. All persons, partnerships, corporations or other entities owning residential property for rent or lease in the City shall obtain an annual rental property permit prior to a tenant taking possession of the property. All permits expire on **June 30** of each year. **(Ord. No. 44-2003; 08-25-03)**

18-6-5 **APPLICATIONS FOR ANNUAL PERMIT.** Every application for an Annual Permit shall be filed with the Code Inspector on a form to be provided by the City. The application fee shall be as follows:

\$25 per dwelling unit. Fee will take effect on January 1, 2016.

(Ord. No. 30-2015; 09-28-15)

18-6-6 **REVOCATION OF PERMITS.** The Administrator, upon notice in writing, may revoke any occupancy permit or temporary occupancy permit if:

- (A) He determines that information contained in the application for the permit is false;
- (B) The occupant refuses to allow the inspection of his premises;
- (C) The work authorized by a temporary occupancy permit is not proceeding; or
- (D) The occupant fails to comply with a corrective action order.

18-6-7 **CORRECTIVE ACTION ORDERS.**

(A) **Basis of Corrective-Action Order.** Whenever the Administrator determines, by inspection or otherwise, that any occupancy or any dwelling, dwelling unit, accessory structure or other portion of residential premises is in violation of this Code he shall so notify the owner and/or occupant in writing and order appropriate corrective action.

(B) **Contents of Order.** The order to take corrective action(s) shall include the following information:

- (1) A description of the premises sufficient for identification;
- (2) A statement indicating the nature of the violation.
- (3) A statement of the remedial action (repairs, reduced number of occupants, etc.) necessary to effect compliance;
- (4) The date by which the violation must be corrected;
- (5) The date by which an appeal of the correction order must be filed and a statement of the procedure for so filing;
- (6) A statement that if the violation is not corrected or if the order is not appealed within the prescribed time limits, the occupancy permit may be revoked, a fine may be imposed, and/or the property may be declared unfit for human habitation with attendant consequences.

(C) **Service of Order.** The corrective action order shall be deemed properly served upon the owner, agent, or occupant if it is:

- (1) Served upon him personally;
- (2) Sent by registered mail to his last known address; or if (1) or (2) are impossible);
- (3) Posted in a conspicuous place on or about the dwelling or premises.

(D) **Transfer of Ownership Prohibited.** It shall be unlawful for the owner of any dwelling who has been served a corrective action order to sell, transfer, mortgage, lease, or otherwise dispose of the dwelling until he has either:

- 1. Effected compliance with the provisions of this Code; or
- 2. Furnished the grantee, transferee, mortgagee, or lessee a true copy of the corrective action order and has given the Administrator a signed and notarized statement from said grantee, transferee, mortgagee, or lessee that acknowledges receipt of such corrective action order and unconditionally accepts responsibility for making the required repairs.

(E) **Access by Owner or Operator.** The occupant(s) of every dwelling unit shall give the owner or operator, or his agent or employee, free access thereto at any reasonable time in order to allow him to make any inspection, alteration, maintenance, or repair necessary to effect compliance with this Code.

18-6-8 DWELLINGS UNFIT FOR HUMAN HABITATION. In addition to action authorized elsewhere in this Code, the Administrator shall declare "unfit for human habitation" any dwelling that is so damaged, dilapidated, vermin-infested, or deficient with respect to illumination, ventilation, or basic facilities (including sanitary, electrical, plumbing, heating, etc.) that it creates a serious hazard to the health or safety of the occupants or the public.

(A) **Placard.** The Administrator shall post a placard on every dwelling declared unfit for human habitation. The placard shall include:

1. The name of this Municipality.
2. A statement that said placard has been posted by the Administrator under authority of this Code.
3. The date of posting;
4. An order that the dwelling must remain vacated and off-limits to all unauthorized persons until compliance with this Code is achieved and such order to vacate is withdrawn; and
5. A statement that defacement or removal of the placard is a violation of this Code punishable by a fine not to exceed **Five Hundred Dollars (\$500.00)**.

(B) **Dwelling to be Vacated.** Any dwelling declared unfit for human habitation and so placarded shall be vacated within a reasonable time as ordered by the Administrator. Occupancy of such dwelling shall not be resumed until the Administrator has approved in writing and removed the placard. The Administrator shall remove the placard as soon as the defects that prompted the declaration of unfitness have been eliminated. No other person shall deface or remove said placard.

(C) **Vacated Dwelling to be Made Secure.** The owner of every dwelling declared unfit for human habitation shall board up and otherwise make said dwelling safe and secure so that it does not constitute a fire hazard or public nuisance. **(See Sec. 18-3-13)**

18-6-9 EMERGENCY MEASURES. Notwithstanding any other provisions of this Code, whenever the Administrator determines that any dwelling, accessory structure, or other part of a residential premises poses an immediate peril to the occupants or to the public, he may take any action necessary to alleviate the perilous condition--including ordering immediate demolition--without notice.

18-6-10 CORRECTION BY MUNICIPALITY. If any dwelling owner fails to obey a corrective action order, the Administrator may cause the necessary work (including demolition) to be performed by municipal employees or may contract to have the work done by a private concern. The Administrator shall keep an accurate account of expenses incurred and shall file said account with the Municipal Clerk. The Clerk shall pay such expenses on behalf of this Municipality. **(In part: 1986)**

18-6-11 DEMOLITION OF ABANDONED BUILDINGS. It is within the authority of the Municipality, after proper notice has been given, to cause the demolition of any structure that poses an immediate peril to the occupants or to the public; is a fire hazard; or is in such a state of disrepair that the cost to bring the structure into compliance with municipal ordinances exceeds the cost of demolition. **(1986)**

18-6-12 RECOVERY OF COSTS. The Clerk shall mail a statement of the total expenses incurred to the owner of the dwelling. In accordance with **65 ILCS 5/11-31-1**, if the owner has not paid the total amount due within **sixty (60) days** after said statement is mailed, the costs shall constitute a lien on the property. The Municipal Clerk shall file notice of this lien with the County Recorder of Deeds, setting forth the following:

- (A) A description of the real estate sufficient for identification;
- (B) The amount of the expenses incurred; and
- (C) The date on which the expenses were incurred.

(D) The lien must be enforced by customary foreclosure proceedings within **three (3) years** from the date notice thereof is filed.

18-6-13 **COMPLAINTS.** Whenever any violation of this Code occurs or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and if necessary, institute appropriate corrective action.

18-6-14 **PENALTIES.**

(A) A violation of any provision of this Code shall be an ordinance violation. The occupancy shall be considered separate and independent from the owner (unless they are one and the same), and each shall be, upon conviction, subject to the penalties indicated in **Section 1-1-29** of this Code. For purposes of **Paragraph 18-6-7**, the offending utility company, rather than any individual, shall be named as the violator.

(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.

(Ord. No. 9-2011; 03-03-11)

18-6-15 **APPEALS.** Any person aggrieved by any decision or order of the Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Corporate Authorities.

(A) **Filing; Record Transmittal.** Every appeal shall be made within **ten (10) days** of the matter complained of by filing with the Administrator and the Municipal Clerk a written notice specifying the grounds for appeal. The fee for filing an appeal shall be **Twenty-Five Dollars (\$25.00)**. Not more than **five (5) working days** after the notice of appeal has been filed, the Administrator shall transmit to the Corporate Authorities all records pertinent to the case.

(B) **Stay of Further Proceedings.** An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Corporate Authorities, after the notice of appeal has been filed with him, that for reasons stated in the certificate a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the circuit court grants a restraining order for due cause, and so notifies the Administrator.

(C) **Hearing; Decision by Corporate Authorities.** The Corporate Authorities shall publicly hear each appeal at their next regularly scheduled meeting following submission of the Administrator's records. Any interested party may appear at the hearing and testify, either in person or by duly authorized agent or attorney. The Corporate Authorities shall render a decision on the appeal within a reasonable time after the hearing. They may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from to the extent and in the manner they deem appropriate.

ARTICLE VII - NON-OWNER-OCCUPIED DWELLINGS

18-7-1 **LEGISLATIVE FINDINGS OF FACT.** It is hereby found and declared there exists in the City, premises used, designed or intended for human habitation which are, or may become in the near future, substandard with respect to structure, equipment or maintenance and further such conditions together with inadequate provisions for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions and overcrowding constitute a menace to the health, safety, morals, welfare and reasonable comfort of its citizens. It is further found and declared that the existence of such conditions, factors or characteristics has created and will continue to create slum and blighted areas requiring large scale clearance and further that in the absence of corrective measures such areas will experience a deterioration of social values, a curtailment of investments and tax revenues and an impairment of economic values. It is further found and declared that the establishment and maintenance of minimum housing standards are essential to the prevention of blight and decay and the safeguarding of public health, safety, morals and welfare.

18-7-2 **PURPOSE OF HOUSING CODE.** The intent and purpose of this Article is to protect the public health, safety and the general welfare of the citizens of the City. These general objectives include, among others, the following specific purposes:

- (A) To protect the character and stability of residential areas within the City.
- (B) To provide minimum standards for heating and sanitary equipment necessary to the health and safety of occupants of buildings.
- (C) To provide facilities for light and ventilation necessary to health and safety of occupants of buildings.
- (D) To prevent additions or alterations to existing dwellings that would be injurious to the life, health, safety or general welfare of the occupants of such dwellings or neighboring properties.
- (E) To provide minimum standards for the maintenance of existing residential buildings to prohibit unsuitable residential housing.
- (F) To preserve the taxable value of land and buildings throughout the City.
- (G) To fix responsibility and duties of owners, operators, agents and occupants of dwellings, dwelling units, rooming houses, multiple dwellings and rooming units unfit for human habitation.
- (H) To fix penalties for the violations declared to be remedial and essential to the public interest.

It is the intent of this Article that each provision of this Article shall be liberally constructed to effectuate the purposes as stated above. Nothing in this Article shall be deemed to abolish or impair existing remedies of the City or its officers or agents relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary or the abatement of any nuisance.

18-7-3 **APPLICABILITY TO ALL DWELLINGS.** Each building or premises, or any part thereof, used, designed or intended to be used for a non-owner occupied dwelling purpose, except temporary housing, shall be subject to the provisions of **Section 18-7-11(C)** and **(D)**, comply with the provisions of this Article, irrespective of when such building shall have been constructed, altered or repaired; and irrespective of any permit or license which shall have been issued for the construction or repair of the building or for the installation or repair of equipment or of the facilities prior to the effective date of this Article. This Article establishes minimum standards (except as provided in **Section 18-7-4**) required to be met at all times for the use of dwellings, building facilities and equipment.

18-7-4 **CONFLICT WITH OTHER ORDINANCES.** In any case where a provision of this Article is found to be in conflict with a provision of any zoning, building, electrical, plumbing, fire, safety or health ordinance or regulation of the City regulating existing buildings, the provision which established the most restrictive standard shall prevail, except that the provision of this Article shall, with regard to non-owner-occupied dwellings supersede the provisions of and part of **Chapter 18**.

18-7-5 CONFLICTS OF PERMITS AND LICENSES. All departments and officials of the City having the duty or authority to issue permits or licenses in regard to the construction, installation or repair of dwellings, dwelling units, rooming houses, rooming units, multiple dwellings, equipment or facilities shall conform to the provisions of this Article and no such permit or license shall be issued if such would be in conflict with this Article. Any permit not authorized to be issued shall be subject to revocation.

18-7-6 DEFINITIONS.

Accessory Structure: A detached structure which is not used and not intended to be used for living or sleeping by human occupants and which is located on the same premises as a principal structure and the use of such accessory structure is incidental to the principal structure.

Approved: Approved by the Building & Inspection Department of the City.

Basement: That portion of a building partly underground by having more than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Bathroom: Enclosed space containing **one (1)** or more bathtubs, showers or both and which may also include toilets, lavatories or fixtures serving similar purposes.

Building: A combination of any materials, whether portable or fixed, having a roof to form a structure affording shelter for persons, animals or property. The word "building" shall be construed, when used herein as though followed by the words "or parts thereof" unless the context clearly requires a different meaning.

Dwelling: Any building which is wholly or partly used, designed or intended to be used for living or sleeping by human occupants; provided that "temporary housing" as hereinafter defined shall not be regarded as a dwelling.

Dwelling Unit: Any room or group of rooms located within a dwelling forming a single habitable unit with facilities which are used, designed or intended to be used for living, sleeping, working and eating.

Egress: Arrangements and openings to assure a safe means of exit from buildings.

Exterior Property Areas: Open spaces on the premises and vacant open space on adjacent premises.

Extermination: The control and elimination of insects, rodents or other pests by eliminating their harborage; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the proper authorities.

Floor Area: The total horizontal living area of habitable space.

Garbage: Anything that may decompose and become offensive or dangerous to health, including but not limited to waste products from the handling, storage, preparation, cooking and consumption of food.

Grade (Ground Level): The average of the finished ground level. In case walls are parallel to and within **five (5) feet** of a sidewalk, the said finished ground level shall be measured at sidewalk.

Habitable Room: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries and utility rooms of less than **fifty (50) square feet**, foyers or communicating corridors, stairways, closets, storage spaces and workshops, hobby and recreation areas below ground level or in attics.

Hot Water: Water heated to a temperature of not less than **one hundred twenty degrees (120°) Fahrenheit** at the outlet.

Hotel and Motel: See definition of Rooming House.

Infestation: The presence, within or contiguous to a dwelling, dwelling unit, rooming house, multiple dwelling, rooming unit or premises of insects, rodents, vermin and other pests.

Kitchen: Any room containing any or all of the following equipment or any area of a room within **three (3) feet** of such equipment: sink or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cold food storage, cabinets or shelves for storage or cooking equipment and utensils and counter or table for food preparation.

Lead Bearing Substance: Any paint, plaster or other material or substance containing more than **five-tenths of one percent (0.5%)** by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint previously applied.

Let: Any lease, agreement or arrangement permitting occupancy or use; and also, any contract for deed or agreement to purchase or unrecorded deed permitting occupancy or use of a dwelling unit which is not actually receiving the General Homestead Exemption from Taxation under **35 ILCS 200/15-175** during said occupancy or use.

Meaning of Certain Words: Whenever the words "dwelling", "dwelling units", "rooming units", "premises", "structure" are used in this Article, they shall be construed as though they were followed by the words "or any part thereof". Words used in the singular include the plural and, in the plural, the singular, the masculine gender includes the feminine and the feminine the masculine.

Mobile Homes: A factory-assembled, movable dwelling designed and constructed to be towed on its chassis, comprised of frame wheels, to be used without a permanent foundation, and distinguishable from other types of dwellings in that the standards to which it is built include provisions for its mobility on that chassis as a vehicle. Removal of the tongue, wheels or hitch or placement of the structure upon a permanent foundation shall be considered in determining whether or not a structure is a mobile home.

Multiple Dwelling: Any dwelling containing more than **one (1)** dwelling unit and/or rooming unit.

Occupant: Any person living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

Operator: Any person who has charge, care or control of a multiple dwelling, hotel, motel or rooming house, in which dwelling units or rooming units are let or offered for occupancy.

Ordinary Winter Conditions: Means a temperature of **fifteen degrees (15°) Fahrenheit** above the lowest recorded temperature in the City for the prior 10-year period.

Owner: Any person or entity who shall have a legal, equitable or beneficial interest in the subject real estate, or any improvements thereto; or a reversionary leasehold interest in the subject real estate, or any improvements thereto; or a capacity to manage the subject real estate or any improvements thereto pursuant to an Order of Court, power or agreement.

Person: Any individual, firm, corporation, association or partnership.

Plumbing: All of the following facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, showers, installed clothes washing machines, catch basins, drains, vents and any other similar equipment and fixtures and the installation thereof, together with all connections to water, sewer or gas lines.

Potable Water: Water duly approved as satisfactory and safe for drinking by the Illinois Environmental Protection Agency.

Premises: A lot, plot or parcel of land including any buildings or structures thereon.

Public Sewer: A sewerage system operated by the City and available for public use.

Rental Dwelling: Any dwelling or dwelling unit which is occupied pursuant to a lease or other agreement or arrangement including a contract for deed or agreement to purchase or unrecorded deed permitting occupancy in exchange for consideration. Rental dwelling does not include a dwelling unit which is occupied by a named grantee within a deed recorded within the Office of the Recorder of Deeds, Williamson County, Illinois.

Rooming House: Any dwelling or part of a dwelling containing **one (1)** or more rooming units in which space is rented by the owner or operator to **three (3)** or more persons who are not the husband and wife, father or mother, son or daughter, grandparent or grandchild, brother or sister, uncle or aunt, nephew or niece or cousin of the first degree of the owner or operator.

Rooming Unit: Any room or group of rooms intended to be used for living or sleeping but not for cooking purposes.

Rubbish: Combustible and noncombustible waste materials, except garbage.

Sewage: Waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine or the water carried waste from any other fixture or equipment or machine.

Structure: A combination of any materials, whether fixed or portable, forming construction, including buildings. The word structure shall be construed as though followed by the words "or parts thereof".

Supplied Facilities: Facilities paid for, furnished or provided by or under the control of the owner or operator.

Temporary Housing: Any tent, recreational vehicle as defined by **625 ILCS** or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utility system for more than **fifteen (15) consecutive days** or **thirty (30) days** during any calendar year.

Ventilation: Supply and removal of air to and from any space by natural or mechanical means.

Vermin Harborage: Any place where rats, mice, raccoon, opossum, groundhog, stray cats or other animals that are pests can live, nest or find shelter.

Vermin Proofing: A form of construction which will prevent the ingress or egress of vermin to or from a given space or building, or gaining access to food, water or vermin harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings and other places that may be reached and entered by vermin gnawing and other methods approved by the appropriate authority.

18-7-7 STANDARDS FOR EXTERIOR PROPERTY AREAS. No person shall own or occupy or let to another for occupancy any dwelling or dwelling unit which does not comply with the following requirements:

(A) **Free From Hazards.** Exterior property areas shall be free from conditions which might create a health, accident or fire hazard or which might endanger the public welfare, including but not limited to holes and excavations, sharp protrusions, barbed wire (unless **six (6) feet**

above the ground atop a chain link, solid or other approved fence), sheer embankments, inoperative or abandoned vehicles or machinery, unused household goods or appliances and other objects or materials. Walks, steps and driveways that contain holes or tripping hazards shall be filled, repaired or replaced as necessary. Open wells, cesspools, septic tanks or cisterns shall be kept securely closed if in approved use. If they are not in approved use, they must be filled with natural soil. No unlicensed, inoperable, junk or nuisance motor vehicle nor other nuisance as defined within the City Code shall be permitted on the premises.

(B) **Free from Rubbish and Garbage.** Disposal of rubbish and other refuse shall be done in accordance with all regulations of the City. The property shall be free of accumulating rubbish and garbage.

(C) **Fences.** All fences provided by the owner or agent on the premises and/or all fences erected by an occupant shall be constructed of manufactured metal fencing material, wood masonry or other material. Such fences shall be maintained in good condition. Wood materials, other than decay-resistant wood shall be protected against decay by use of paint or other preservative. Any paint or other protective material must be maintained free of deterioration, in sound condition and good repair. The permissible height and other characteristics of all fences shall conform to the appropriate statute, ordinances and regulations of the City and State. Wherever any egress from the dwelling opens into the fenced area, there shall be a means of egress from the premises to any public way adjacent thereto.

(D) **Accessory Structures.** Accessory structures present or provided by the owner, agent or tenant occupant on the premises of a dwelling shall be structurally sound and be maintained in good repair and free from insects and rats, or such structures shall be removed from the premises. The exterior of such structure shall be made weather resistant through the use of decay-resistant materials or the use of paint or other preservatives. Paint or other protective coverings must be maintained free of deterioration, in sound condition and good repair.

(E) **Sewage.** Sewage must be discharged into a public sewer system or if otherwise permitted by the Revised Code of Ordinances into an approved septic tank. Discharge of inadequately treated sewage shall not be permitted upon the surface of the ground or into any natural or artificial drainage way.

(F) **Noxious Weeds.** Exterior property areas shall be kept free of all weeds which are detrimental to the public health, including, but not limited to ragweed, poison ivy, poison oak and poison sumac.

(G) **Insect and Vermin Harborage.** Where insect or vermin breeding areas, harborage or infestation exist the same shall be eliminated.

(H) **Storage of Materials.** In the event that occupancy usages would result in stacking or piling materials, the materials shall be so arranged as to prohibit the creation of a vermin harborage area. Such shall be accomplished by orderly stacking and elevating so that there will be at least a **twelve (12) inch** opening between the material and the ground level. No stacking or piling of material shall take place against the exterior walls of the structure.

(I) **Water** shall not be permitted to accumulate or stand on the premises so as to create any stagnant condition, mosquito breeding ground, offensive smell, unsightly condition, unsafe or hazardous condition or other condition potentially harmful to the public health or safety.

(J) All outdoor spas and hot tubs must be securely enclosed in a solid, chain link or other approved fence not less than **four (4) feet** in height with a self-closing and self-latching gate or locked gate. Fencing or barriers for swimming pools and wading pools shall comply with the applicable building and residential codes adopted by the City.

18-7-8 STANDARDS FOR MAINTENANCE OF DWELLINGS AND DWELLING UNITS. No person shall own or occupy or let to another for occupancy any dwelling or dwelling unit which does not comply with the following requirements:

(A) **Foundations, Floors, Walls, Ceilings and Roofs.** Every foundation, floor, wall, ceiling and roof shall be reasonable weather tight and vermin proof, shall afford privacy and shall be kept in good repair. The foundation elements shall adequately support the building at all points; floors shall be free of hazard; every exterior wall shall be free of holes, breaks, loose or rotting boards and

timbers and any other condition which might admit vermin, rain or dampness to the interior portions of the walls or the interior spaces of the dwelling; all exterior surface materials shall be protected from the elements and decay by paint or other protective covering or treatment, when required to prevent deterioration in sound condition and good repair. Every interior wall shall be free of holes and large cracks, loose plaster and other structural material. The roof shall be tight and shall have no defects which admit rain. All openings for pipes, conduits and other utility services accessible to vermin shall be closed solidly for the full thickness of the wall, floor, roof, etc., with an approved vermin proof material or fitted with a collar or shield, securely fastened to the wall or floor, of not less than **twenty-four (24) gauge** galvanized sheet metal or other approved materials, extending at least **three (3) inches** beyond all sides of the opening.

(B) **Lead Bearing Substances.** No person shall sell, use or apply any substance in which the total nonvolatile ingredients contain more than **five-tenths of one percent (0.5%)** of lead, by weight, calculated as metallic lead in or upon any exposed interior surface of a dwelling, dwelling unit or temporary housing, nor in or upon any fixture or other object used, installed or located in or upon such surface or intended to be so used, installed or located. Upon notice from the City of the existence of any such substances herein prohibited, it shall be the responsibility for the owner to remove or to securely and permanently cover such surfaces within **fourteen (14) days** after the receipt of such notice, unless the Building Inspector shall, for good cause shown, grant in writing an additional period of time to complete such removal or covering.

(C) **Windows, Exterior Doors and Basement Hatchways.** Every window, exterior door and basement hatchway shall be reasonable watertight and vermin proof and shall be kept in good working condition and good repair. Every opening located at or within **one and one-half (1 ½) feet** of ground level which might provide an entry for vermin, shall be adequately covered with screening or some other device so as to effectively prevent the entrance of vermin, but so as not to prevent emergency egress where such egress is appropriate.

(D) **Stairs and Porches.** Every inside and outside stair, every porch and every appurtenance to any of the foregoing shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon, and all of the aforesaid shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and uniform treads.

(E) **Handrails.** Every flight of stairs more than **four (4) risers** high shall have at least **one (1) handrail** not less than **two and one-half (2 ½) feet** high, measured vertically from the nose of the tread to the top of the railing; and every porch, balcony or deck more than **four (4) risers** above the ground shall have handrails at least **two and one-half (2 ½) feet** (measured from the floor to the top of the railing) extending around it. Handrails shall be securely fastened, properly maintained and capable of bearing normally imposed loads.

(F) **Chimneys, Flues and Vents.** All chimneys, flues and vents on every structure used for human habitation shall be structurally sound, free from defects and capable of performing the function for which the same are designed or used. Each shall have sufficient draft to develop the rated output of the equipment. Chimneys, flues, gas vents and their supports shall be structurally safe, durable, smoke tight and capable of withstanding the action of flue gasses or shall be rendered functionally unusable by interior fireplaces and all other heating facilities as provided within the Fire Code of the City.

(G) **Rubbish and Garbage.** The interior of every structure used for human habitation shall be maintained free from rubbish and garbage that might become a health, accident or fire hazard.

18-7-9 STANDARDS FOR BASIC EQUIPMENT AND FACILITIES. No person shall own or occupy or let to another for occupancy any dwelling or dwelling unit intended for the purposes of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

(A) **Kitchen Equipment.** A room or portion of a room in which food may be prepared and/or cooked, such room or portion thereof having adequate circulation area and being equipped with the following minimum equipment.

- (1) A kitchen sink in good working condition and properly connected to a water and sewerage system in accordance with the applicable ordinances of the City and the statutes of the state.

- (2) Cabinets or shelves for the storage of eating, drinking and cooking equipment and utensils and of food that does not under ordinary summer conditions require refrigeration for safekeeping.
- (3) A counter or table for food preparation.

All of the foregoing equipment shall be of sufficient size and design so as to be adequate for the permissible occupancy of the dwelling or dwelling unit and all shall have surfaces that are easily cleaned and that will not impart any toxic or harmful effect to food.

(B) **Toilet Facilities.** A room affording privacy to a person within said room and which is equipped with a flush water closet and lavatory basin, both in good working condition and properly connected to a water and sewage system in accordance with the applicable ordinances of the City and Illinois statutes.

(C) **Bathing Facilities.** A room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition and properly connected to a water and sewage system in accordance with the applicable ordinances of the City and Illinois statutes. The room containing the toilet facilities required by subsection (B) above and the room containing the bathing facilities required by the provisions of this subsection may be one and the same room.

(D) **Water Supply.** Every kitchen sink, lavatory basin and bathtub or shower required under the provisions of this Article shall be properly connected with both hot and cold-water lines.

(E) **Water Heating Facilities.** Every dwelling unit shall have water heating facilities which and properly installed and connected and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, tub or shower at a temperature of not less than **one hundred twenty degrees Fahrenheit (120°F)**.

(F) **Garbage Storage Facilities.** Every dwelling unit shall have adequate garbage storage containers. Garbage shall be placed in containers with tightly fitted lids. Containers shall not be located in such a manner to be visually offensive, a health threat or nuisance due to the blowing of debris from containers by the wind, odors from the container or for any other reason. Containers, except on the day of pick-up shall be situated within an enclosed building or shall be situated immediately adjacent to a building; containers shall not be placed or situated adjacent to any street or alley or within any yard, except as herein provided. In the event, a dumpster or other community container is provided for the temporary storage of garbage prior to disposal such dumpster or community container shall be enclosed within a building or shall be enclosed by a solid, **six (6) foot** screening device such as a fence or wall so as to be completely concealed on **three (3) sides**, with only **one (1) side** open for accessibility by a garbage collection crew.

(G) **Rubbish Storage.** No rubbish shall be stored or replaced upon any premises or within dwelling unit, except rubbish may be temporarily placed within containers with tightly fitted lids or inside an accessory structure in a manner such that the rubbish creates no nuisance, fire hazard, vermin harborage or other danger.

(H) **Egress Requirements.** Every dwelling unit shall have at least one unobstructed means of egress that leads to a public street or alley either directly or through a court or yard. Every dwelling unit located on the second or higher store shall have at least **two (2)** such exits. An emergency escape ladder placed upon each second or higher story shall be considered an acceptable second means of egress as long as it is UL Underwriters Laboratory listed and approved; the requirement to provide an approved emergency escape ladder during the entire term of the lease, in the event is the tenant's primary responsibility to provide and place an emergency escape ladder then said emergency escape ladder shall be obtained and placed within **forty-eight (48) hours** of the tenant entering into possession of the dwelling unit. The following language within a lease shall be sufficient to place primary responsibility upon the tenant to provide an emergency escape ladder: "Within **forty-eight (48) hours** of the tenant assuming occupancy of the leased premises, tenant shall place and shall thereafter maintain during the lease term, an approved emergency escape ladder upon each second or higher story floor of the leased premises". Passage to a dwelling unit's exit(s) shall not lead through any other dwelling unit or through a space that might reasonable be locked by anyone who is not a member of the household. As any basement bedrooms shall have a minimum of two exits, if one exit is a window it shall be at least **5.7 square feet** of clean opening and no more than **forty-four (44) inches** above the floor.

(I) **Medication and Poison Storage Facilities.** Each dwelling unit shall provide for the safe storage of medications and household poisons. Each cabinet or storage facility used for medications or household poisons shall have an approved child resistant locking device if any part of the storage area of said cabinet or storage facility is less than **four (4) feet** in height above the floor. The requirement to provide approved child resistance locking devices shall be the sole responsibility of the owner unless the written lease of the owner with a tenant requires the tenant to obtain, install and maintain said approved child resistant locking devices during the entire term of the lease; in the event is the tenant's primary responsibility to provide approved child resistant locking devices, then said locking devices shall be installed within **forty-eight (48) hours** of the tenant entering into possession of the dwelling unit. The following language within a lease shall be sufficient to place the primary responsibility upon the tenant to provide child resistant locking devices: "Within **forty-eight (48) hours** of the tenant assuming occupancy of the leased premises, tenant shall install and thereafter maintain during the lease term, approved child resistant locking devices for each cabinet or storage facility used for storage of medications or household poisons having any storage area less than **four (4) feet** in height above the floor.

(J) **Locks.** No person shall let to another for occupancy any dwelling or dwelling units unless all exterior doors of the dwelling or dwelling unit are equipped with safe functional locking devices and are further made secure as set forth in **Section 18-7-3** of this Article.

(K) **Smoke Detectors.** All dwellings and dwelling units shall have an operable smoke detector in each bedroom, on each story of the dwelling unit and within **fifteen (15) feet** of each sleeping room area, which detector shall comply with the applicable Codes of the City and with the statutes of the State of Illinois.

(L) **Carbon Monoxide Detectors.** Every dwelling unit shall be equipped with a properly installed carbon monoxide detector if there is gas to the property or an attached garage on each story of the dwelling unit and within **fifteen (15) feet** of each sleeping room area, placed **three (3) feet** from the floor, which detector shall comply with the applicable articles of the City and with the Statutes of the State of Illinois.

(M) **Plumbing.** Every dwelling unit shall have properly installed sewer lines, water lines, plumbing fixtures, vents and drains, all of which shall be maintained free from obstructions, leaks or defects so as to prevent structural deterioration or health hazards. All plumbing shall comply with the State of Illinois Plumbing Code and the applicable ordinances of the City.

(N) **Stairway and Porches.** Every stairway, inside or outside a dwelling and every porch shall be kept in a safe condition, free of deterioration and in sound repair. Every open stairwell and every flight of stairs and every porch shall comply with the applicable City ordinances.

18-7-10 STANDARDS FOR LIGHT, VENTILATION AND HEATING. No person shall own or occupy or let to another for occupancy any dwelling or dwelling unit intended for the purpose of living therein, which does not comply with the following requirements:

(A) **Lighting.** Every habitable room shall have at least **one (1) window** or skylight facing outdoors or artificial lighting capable of producing at least an average illumination of **six (6) foot candles** over the area of the room at a height of **thirty (30) inches** above the floor (**three (3) foot candles** minimum requirement in bathrooms), excepting that such rooms are connected to another room or area and such other room or area is only used seasonally; such as but not limited to, porches and adequate daylight enters the said habitable room through the interconnection are not required to have such windows or skylights. The minimum total window or skylight area shall be measured between stops and shall be for every room where required equal to at least **eight percent (8%)** of the floor area of the room in which located. No window shall be deemed to be facing outdoors if any light-obstructing structures are located less than **three (3) feet** from such window and extend to a level above that of the ceiling of the room in which such window is located and the same shall not be included as contributing to the required minimum total window area. Every public hall and every stairway in every multiple dwelling shall be adequately lighted by natural or electrical light at all times so as to provide in all parts thereof at least **ten (10) foot candles** of light at the tread or floor level. Every public hall and every stairway in structures containing not more than **two (2) dwelling units** or nor more than **two (2) rooms** used as rooming units shall comply with the provisions of this subsection relating to multiple

dwellings or in the alternative shall be supplied with conveniently located light switches controlling an adequate lighting system to be turned on when needed with full-time lighting not being required.

(B) **Ventilation.** Every habitable room, excepting those connected to another room or area that is used only seasonally and adequate ventilation is provided through such interconnection and further excepting those rooms ventilated by some other approved device, shall have at least **one (1) window** or skylight facing outdoors which can be easily opened or provided mechanical exhaust of **sixty (60) cfm**, exhausted to the atmosphere above the roof line or secured into a vented soffit area and away from openable windows into which foul air might be blown. The total of openable window or skylight area required shall be equal to at least **four percent (4%)** of the floor area of the room in which it is located.

(C) **Bathroom Ventilation.** Every bathroom and water closet compartment shall comply with the ventilation requirements for habitable rooms as provided in subsection (B) of this Section.

(D) **Electrical Service.** The electrical service within each dwelling, dwelling unit and accessory structure shall comply with the applicable electrical, fire, residential and other Codes adopted by the City, including but not limited to the following requirements: Where there is usable electrical service available from power lines which are situated not more than **three hundred (300) feet** from a dwelling, every dwelling unit situated in such dwelling and all public and common areas of such dwelling shall be supplied with electrical service, outlets and fixtures which shall be properly installed shall be maintained in good and safe working condition and shall be connected to a source of electrical power in a lawful manner and in accordance with applicable Codes. Under no circumstance shall temporary wiring for electrical service within a dwelling unit or for any accessory structure be permitted. The minimum capacity of such service and the number of outlets and fixtures shall be as follows:

- (1) Every habitable room shall have electrical service and outlets and/or fixtures capable of providing at least **three (3) watts** per square foot of total floor area. Outlets should be distributed reasonably evenly around the room. Extension cords may not be used for more than their UL rated capacity; no extension cord shall be used as a receptacle for another extension cord.
- (2) Every habitable room and every non-habitable room used for food preparation shall have at least one floor-type or one wall-type electrical convenience outlet for each **sixty (60) square feet** or fraction thereof total floor area and in no case less than **two (2)** such outlets.
- (3) Every bathroom, water closet compartment, kitchen or kitchenette, laundry room, furnace room and public shall contain at least one ceiling-type or wall-type electrical light fixture. No dwelling shall have less than a 100-amp service. No dwelling or electric service upon any dwelling premises shall utilize or have knob and tube wiring; upon removal of knob and tube wiring the entire electric service, outlets and fixtures shall comply with the electrical code of the City.

(E) **Heating Facilities.** Every dwelling shall have permanent heating facilities which are properly installed, maintained in safe and good working condition with proper safety devices and which are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein, to a temperature of at least **sixty-eight degrees Fahrenheit (68°F)** at a distance of **thirty-six (36) inches** above floor level under ordinary winter conditions. Permanent heating facilities are not capable of being readily moved around the dwelling and are generally affixed to the building. Examples of permanent heating facilities include but are not limited to, oil, gas, electric and coal furnaces or boilers; electrical heat pumps; wood furnaces or stoves; electric baseboard heaters, active or passive solar devices; or devices connected to a district heating system. Permanent heating facilities can be used singly or in combination to meet the performance standards contained herein. Any auxiliary heater shall be UL approved and equipped with automatic shutoff. All auxiliary heaters must be used in accordance with the manufacturer's instructions. Auxiliary heaters are intended to supplement the permanent heating facilities. Auxiliary heating devices include but are not limited to portable electric space heaters and portable kerosene or oil heaters. The capacity of auxiliary

heaters shall not be counted in determining whether the performance standards for heating are met in a dwelling.

(F) **Insect Protection.** During that portion of each year between **May 1** and **October 1**, both dates inclusive, every door opening directly from a dwelling unit or rooming unit to outside space that is used for ventilation and every window and other device with openings to outside space that is used or capable of being used for ventilation shall have a properly fitted screens having at least **sixteen (16) mesh** so as to afford protection against mosquitoes, flies, and other flying insects. Screens must be on the premises and available for inspection from **October 2** through **April 30**, both dates inclusive. Also, between **May 1** and **October 1** all hinged screen doors shall be equipped with self-closing devices. Provided, however, that if a dwelling unit has fully functioning and operating central air condition which services the entire dwelling unit then the screening requirements herein are not applicable.

18-7-11 STANDARDS FOR SPACE, USE AND LOCATION. No person shall own or occupy or let to another for occupancy any dwelling or dwelling unit, intended for the purpose of living therein, which does not comply with the following requirements:

(A) **Minimum Space in Dwelling Units.** The minimum habitable room space of any dwelling unit shall be not less than **one hundred fifty (150) square feet** of floor area for the first occupancy and not less than an additional **one hundred (100) square feet** of floor area for every additional occupant.

(B) **Minimum Space in Sleeping Rooms.** Every room occupied for sleeping purposes by one occupant shall have a minimum floor area of at least **seventy (70) square feet**. Every room occupied for sleeping purposes by more than one occupant shall contain at least **fifty (50) square feet** of floor area for each occupant.

(C) **Access to Bathrooms and Sleeping Rooms.** Any dwelling or dwelling unit containing **two (2)** or more sleeping rooms shall have such room arrangement so as to provide access to a bathroom or water closet compartment so as to permit persons using each of such sleeping rooms to have access to a bathroom or water closet compartment without the necessity of passing through another sleeping room and shall have such room arrangement so as to provide access to each sleeping room so as to permit persons using such sleeping room to have access thereto without the necessity of passing through another sleeping room or through any bathroom or water closet compartment. Provided however, that if a dwelling, constructed in full compliance with the applicable codes on the date of its construction, because of its structural design in noncompliant with provisions of this subsection, such nonconformity may continue but shall not be expanded.

(D) **Height Requirements.** At least **one-half (1/2)** the floor area of every habitable room shall have a ceiling height of at least **seven (7) feet**. The floor area of that part of any room where the ceiling height is less than **five (5) feet** shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the minimum permissible occupancy thereof. Provided however that if a dwelling, constructed in full compliance with the applicable codes on the date of its construction, because of its structural design in noncompliant with the provisions of this subsection, such nonconformity may continue but shall not be expanded.

(E) **Rooms Below Grade.** Basements may be used as dwelling units if they meet the light, ventilation, heating, egress and all other applicable portions of this Article. NO basement space shall be deemed fit or used as a habitable room or dwelling unit unless the floor and walls thereof are impervious to leakage of underground and surface runoff water and dampness.

18-7-12 STANDARDS FOR ROOMING HOUSES. Notwithstanding anything in this Article to the contrary, no person shall operate a rooming house or occupy or let to another for occupancy any rooming house except in compliance with all applicable provisions of this Article and unless such rooming house complies with the following requirements:

(A) **Bathing and Toilet Facilities.** At least one flush water closet, lavatory basin and bathtub or shower, in good working condition and properly connected to sewer and water system in accordance with the applicable articles and ordinances of the City and the laws of the State shall be

supplied for each **six (6) persons** or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of said facilities; provided, however, that in the case where rooms are rented only to males, flush urinals may be substituted for not more than **one-half (1/2)** of the required number of water closets. Such bathing and toilet facilities shall be reasonably accessible from a common hallway or passageway to all persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities as aforesaid that are located in a basement shall be provisions of **Section 18-7-10(E)** of this Article.

(B) **Bed Linen and Towels.** Where bedding, bed linen or towels are supplied, the owner or operator shall maintain the same in a clean and sanitary condition and shall furnish clean bed linen and towels at least once each week and in any event prior to the renting of any room to any occupant.

(C) **Rooming Unit.** Every room constituting or being a part of a rooming unit that is occupied for sleeping purposes shall comply with the standards set forth in subsection (B) of this Section and shall, in addition, contain not less than **four (4) square feet** of closet space per occupant.

(D) **Means of Egress.** Every rooming unit shall have immediate access to not less than **two (2)** safe, unobstructed means of egress, with minimum headroom of **six feet four inches (6'4")** leading to safe and open space at ground level.

(E) **Maintenance.** Every rooming house shall be maintained in a safe and sanitary condition and full compliance with those standards set forth in **Section 18-7-8** of this Article and each subsections therein of **Section 18-7-1** through **18-7-16** of this Article.

(F) **Hotels and Motels.** Every provision of this Article applicable to rooming houses shall apply equally to hotels and motels, provided, that the provisions of **Section 18-7-10(A)** entitled "Lighting" does not apply to hotels and motels if said hotels and motels meet the requirements of **Section 18-7-10(B)** entitled "Ventilation".

(G) **Mobile Homes.** Every provision of this Article applicable to rooming houses shall equally apply to mobile homes used for rooming houses.

(H) **Hot Air Heating System Returns.** Where hot air heating systems are used, no return air shall be circulated directly from one unit or sleeping room to another.

18-7-13 STANDARDS FOR SECURITY. The following are the standards for security:

(A) **Scope.** All dwelling units within the City shall meet the minimum requirements as set forth herein except structures which, although providing sleeping accommodations, are primarily used for:

- (1) Medical care or other treatment of individuals suffering from physical or mental illness, disease or infirmity;
- (2) The care of infants, convalescents or the elderly;
- (3) Penal or corrective purposes; and
- (4) Hotel or motel purposes and which provide temporary sleeping accommodations for hire used by transients with or without meals.

(B) **Alternative Materials and Methods of Construction.** The provisions of this Section are not intended to prevent the use of any material or method of structural design or analysis not specifically prescribed herein, provided any such alternate is substantiated by suitable evidence.

(C) **Approval of Alternate Material or Method.** The Building and Inspection Department may approve any such alternate material or method provided the proposed design is satisfactory and the material or method of work offered is, for the purposes intended, at least equivalent of that prescribed in this Section.

(D) **Definitions.** For the purpose of this Section, the following definitions shall apply:

Cylinder: The part of a lock set that has an entrance for the key which thereby activates the locking mechanism.

Cylinder Guard: A hardened ring surrounding the exposed portion of the lock cylinder or other device which is so fastened as to protect the cylinder from wrenching, prying, cutting or pulling at attack tools.

Dead Bolt Lock: A locking device with a bolt that has no automatic spring action, and which is operated manually by a key cylinder on its exterior side and by a knob, thumb turn or lever on its interior side and a bolt that is positively held fast when in the projected position (also known as a deadlock).

Dormitory: A building, not open to transients, where lodging is provided for **ten (10)** or more non-family persons and no kitchen facilities other than one central kitchen facility, are provided any dwelling unit occupied by persons other than management personnel.

Flush or Surface Bolt: A deadlock normally used on inactive doors that is attached to the top and bottom and/or side of the door and engages in the frame and/or base of the door.

Hook or Expanding Bolt: A dead bolt lock in which the bolt or bolts interlock with the strike plate into which the bolt or bolts are projected, attached to the door, window or other access points of a building or structure which is designed to prevent unauthorized persons from entering the building or structure through the door, window or other access point on which the locking device is activated.

Single Cylinder Locking Device: A bolt that is activated on its exterior side by a key and on its interior side by a knob, thumb turn, lever or similar mechanism.

Throw: The outward movement of a bolt or spring bolt which is measured by the distance which such bolt travels, i.e., when the bolt or spring bolt is moved from the open position to the locked position (extended), it is said to have been thrown.

(E) **Security Standards.** Except as otherwise provided, exterior doors serving as the required means of egress to the exterior of a multiple dwelling, dormitory, rooming house and individual dwelling units shall comply with the following provisions:

- (1) Doors to individual dwelling units shall meet the following security standards:
 - (a) Single doors shall be secured with a single cylinder locking device. In addition, if requested in writing by a tenant, each single door shall also be secured with a deadbolt lock having a minimum throw of **one (1) inch** or a hook or an expanding bolt with a throw of **three-fourths (3/4) inch** provided that the type of lock shall be at the selection of the landlord with the cost of the lock and installation thereof to be paid by the tenant and provided that upon installation of such additional locking device the locking device shall become the property of the landlord and shall thereafter remain installed and be maintained by the landlord so that it is functional. All locking devices required herein shall have bolts that contain hardened material to repel attempts at cutting through the bolt.
 - (b) On pairs of doors, the active leaf shall be secured with the type lock required for single doors in subsection (E) of this Section. The inactive leaf shall be equipped with flush, or surface bolts protected by hardened material with minimum throw of **three-fourths (3/4) inch** at the head and foot of the door. Multiple point locks, cylinder activated from the active leaf and complying with subsection (E) of this Section and the requirements herein, may be used in lieu of flush bolts.
 - (c) Exterior doors to individual dwelling units shall have rabbeted jambs which are reinforced at the point where the required lock engages the jamb.
 - (d) Firmly secured metal strike plates are required on the jambs of all doors and are to be located at the point when the required lock engages the jamb.
 - (e) Locking devices and parts of locking devices shall not be used if they bear any numbers or letters which would reveal a combination from which the key deactivates the locking device.
- (2) All patio type of sliding doors opening onto patios or balconies which are accessible from the outside shall comply with the following requirements:

- (a) Patio type or sliding doors shall not be used or installed as exterior doors for the main entrance of any individual dwelling unit.
 - (b) All single sliding patio doors shall have the movable section of the door sliding on the inside of the fixed portion of the door, except as provided in subsection (B) of this Section.
 - (c) Dead bolt locks shall be provided on all single patio doors. If the lock is operable from the outside, it shall be activated by a key utilizing a cylinder of pin tumbler construction. Mounting screws for the lock case shall be inaccessible from the outside. Lock bolts shall be of hardened steel or have hardened steel inserts and shall be capable of withstanding a force of **three hundred (300) pounds** applied in any direction. The lock bolt shall engage the strike sufficiently to prevent its being disengaged by any possible installation and operation. The strike area shall be reinforced to maintain the effectiveness of bolt strength. In lieu of providing a dead bolt lock that meets the requirements of this subsection, a single sliding patio door may utilize a removable physical barrier (such as a rod or pipe of substantial construction) of suitable and functional length that is manually placed within the tract of the sliding patio door to securely block the patio door closed.
 - (d) Double sliding patio doors must be locked at the meeting rail and meet the locking requirements as specified in subsection (E) of this Section.
 - (e) Alternate methods for securing doors with movable sections of the door sliding on the outside of the fixed portion of the door must be approved by the building official.
- (3) Any exterior door and any garage door or other inside door leading to the common areas of any multiple dwelling, dormitory or rooming house or to a garage attached to any dwelling unit, which has outside hinge pins shall be secured by a minimum of **two (2)** safety hinge studs or hinges having non-removable hinge pins, one hinge above and one below the center of any locking device.
- (4) Parking facilities either under or within the confines of the perimeter walls of any dwelling unit, multiple-family dwelling, dormitory or rooming house which are equipped with any garage door shall be so equipped that such doors are capable of being locked. Specific locking devices to be employed shall be of one or more of the following types: a) throw bolt or flush bolt, b) dead bolt, c) cylinder type lock, d) padlock and hasp, e) or an electronic power operated mechanism with automatic locking capabilities. When a padlock type locking device is used, the slide bolt or hasp and shackle to which the padlock is attached shall be constructed of hardened steel and shall be installed so that it cannot be removed when the door is closed, and the padlock is activated.
- (5) All exterior windows other than fixed windows or those designed not be opened, less than **twelve (12) feet** off ground level or any other accessible exterior level shall comply with the following requirements:
- (a) Windows shall be so constructed that when the window is locked it cannot be lifted from the frame.
 - (b) All windows shall be equipped with a locking device which shall be capable of withstanding a force of **one hundred fifty (150) pounds** applied in any direction, and all locks should fully engage.

18-7-14 PRIMARY RESPONSIBILITIES.

(A) **Intent.** It is the intent of this Section to establish primary responsibilities in certain areas of compliance with the provisions of this Article. Each owner or occupant shall have responsibility for compliance with this Article and be subject to enforcement, notwithstanding any agreement assigning primary or other responsibility to the other or to a third person.

(B) **Primary Responsibilities of Occupants.** Every occupant above the age of **eighteen (18) years** shall be primarily responsible as to that part of any building, structure or premises over which such occupant shall have a right to possession or control for the following:

- (1) To keep the same in a clean and sanitary condition.
- (2) To not permit rubbish, garbage or other materials to accumulate so as to create a vermin harborage.
- (3) To dispose of rubbish, garbage and other material in the manner provided by the City ordinances.
- (4) The extermination of insects and vermin, after **twenty-one (21) continuous days** of occupancy where: a) the dwelling contains only one dwelling unit or only the occupant's dwelling unit of a dwelling containing more than one dwelling unit is infested and b) infestation has resulted from some cause other than the failure of an owner to maintain the dwelling in a vermin proof or reasonable insect proof condition prior to the commencement of the occupancy.
- (5) To not do anything to cause intentional interruption or disconnection of any utility for which the occupant is liable.
- (6) To maintain and replace required screens after the owner has fulfilled all his primary responsibilities regarding the same as hereinafter set forth in subsection (C) of this Section.
- (7) To remove any abandoned or inoperative vehicle or machinery owned by the occupant as provided by the City ordinance.

(C) **Primary Responsibilities of Owners.** Every owner shall be responsible as to that part of any building, structure or premises over which such owner has the right to possession or control, including but not limited to areas used by the public or used in common by occupants of **two (2)** or more dwelling units, as hereinafter set forth (such responsibilities shall likewise apply to any other part of a building, structure or premises where the content of any such responsibility so implies) as follows:

- (1) To provide and install all required screens once each calendar year.
- (2) To keep the same in a clean and sanitary condition.
- (3) To not permit rubbish, garbage or other materials to accumulate so as to create a vermin harborage.
- (4) To provide adequate and suitable containers for rubbish, garbage or other waste materials where the premises in question contain **three (3)** or more dwelling units.
- (5) "Vermin proofing" as defined in **Section 18-7-6** of this Article.
- (6) The extermination of insects and vermin in all instances excepting those instances where the occupant is primarily responsible therefore as herein above provided in subsection (B) of this Section.
- (7) To keep and maintain all supplied facilities in good and proper condition and operation.
- (8) To provide and maintain in working order a permanent heating system as specified in **Section 18-7-10(E)** of this Article. In structures in which the permanent heating system supplies heat to **two (2)** or more dwelling units or rooming units, the owner shall be responsible for supplying heat in accordance with the standard in **Section 18-7-10(E)** of this Article.
- (9) To not do anything to cause an intentional interruption or disconnection of any utility for which an owner is liable.
- (10) To remove any abandoned or inoperative vehicle or machinery from the premises as provided by City ordinance.

- (11) To keep and maintain all accessory structures in good and proper condition.

18-7-15 ENFORCEMENT.

(A) **Enforcement Officer Duties.** The Chief Building Inspector of the City and Inspectors of the Fire Department or authorized designees of each, are hereby authorized and directed to administer and enforce the provisions of this Article. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (1) To inspect dwellings, accessory structures and residential premises in accordance with this Article;
- (2) To take appropriate actions to correct violations of this Article;
- (3) To review and issue applications for occupancy permits and temporary occupancy permits;
- (4) To maintain up-to-date records of all matters pertaining to the administration and enforcement of this Article;
- (5) To periodically review the provisions of this Article to determine whether revisions are needed and to make recommendations on these matters to the City Council.
- (6) To provide information to the general public on matters related to this Article;
- (7) To attend the applicable meetings of the City Council, any Court hearings concerning this Article and to cooperate with the corporate authorities, including the City Attorney's Office;
- (8) To prepare an occupancy permit application form, inspection checklist and Certificate of Occupancy;
- (9) To make surveys in any area of the City to determine the general condition of structures used for human habitation, the extent of any deterioration, lack of facilities and maintenance, unsafe and unsanitary conditions; the extent of overcrowding and land use, and any other matters relating to the provision and requirements of this Article.
- (10) To perform such other duties as the corporate authorities may from time to time prescribe.

(B) **Inspections.** In order to safeguard the health, safety and welfare of the public, inspectors of the Building and Inspection Department and Fire Department are hereby authorized to make exterior and interior inspections of all dwellings, dwelling units, rooming houses, rooming units, hotels, motels, multiple dwellings and premises, when the same shall appear necessary to determine the condition thereof and the compliance or noncompliance with the provision of this Article. Immediate access to and entry to any such dwelling, dwelling unit, rooming house, rooming unit, hotel, motel, multiple dwelling or premises, shall be afforded any such inspector in the case of an emergency determined by the Building and Inspection Department or Fire Department to exist. No such access and entry shall be required, however, unless such inspector shall first identify himself and request entry; and exhibit his badge or other visual identification to any person entitled to the same who requests said identification. Every owner, owner's agent, or occupant of a rental dwelling shall provide access to the rental dwelling as required by **Section 18-7-16** of this Article. If any owner or occupant of a dwelling unit fails or refuses to permit free access and entry to the structure of premises under his control, or any part thereof, with respect to which an inspection authorized by this Article is sought to be made, the Building and Inspection Department or Fire Department may petition and obtain an Administrative Search Warrant. Whenever inspections of any rental dwelling units are made by the Building and Inspection Department or Fire Department and there are no violations, a Certificate of Occupancy shall be issued to the property owner or owner's agent and shall be made available by the owner or the owners' agent to tenants and prospective tenants. If upon subsequent inspections, violations of this Article are found, the Certificate of Occupancy shall be surrendered to the City and if not surrendered it may be revoked.

(C) **Notice of Violations.** Except as otherwise provided in this Article, in those instances where the Building and Inspection Department or Fire Department shall determine that there

exists a violation of this Article, written notice of such violation shall be given the person alleged to have committed the violation or to be responsible for the violation. In the case of rental dwellings, notice of violation shall be given to the owner of the owner's agent and the occupant of the rental dwelling or unit. Such written notice shall state the alleged violation and a legal description or local address of the structure in violation. It shall state that such violation must be corrected within a reasonable time period specified by the Building and Inspection Department, or Fire Department based on the nature and severity of the violation. Such notice may be personally served on the person to whom addressed or may be sent by first class, registered or certified mail to the last known address of the addressee; such service by mail shall be deemed to have been served at the time of the deposit in the mail thereof. Service shall also be made by posting a placard copy of such notice in a conspicuous place in or about the building, structure or premises in question. Notwithstanding anything to the contrary, notice may be given in any other manner permitted by law in the service of process in civil cases.

(D) **Unfit Dwelling Units.** In addition to any other rights and powers granted the Building and Inspection Department and Fire Department under the provisions of this Article, the Building and Inspection Department or Fire Department may designate and find unfit for human habitation any dwelling, dwelling unit, rooming house, hotel, motel, rooming unit, multiple dwelling or premises and may so placard the same, in the manner described in subsection (C) of this Section upon determining that one or more or all of the following conditions exist:

- (1) The building, structure or premises lacks illumination, ventilation, sanitation heat or other facilities adequate to protect the health and safety of the occupants or of the public;
- (2) The building, structure or premises is damaged, decayed, unsanitary, unsafe or vermin infested in such a manner and to such extent as to create a serious hazard to the health and safety of the occupant5s or of the public;
- (3) The building, structure or premises, because of the location thereof, the general conditions existing, the state of the premises or number of occupants, is to unsanitary, unsafe, overcrowded or otherwise detrimental to the health and safety that it creates a serious hazard to the health and safety of the occupants or of the public.

(E) **Notice of Intent to Vacate.** Wherever the Building and Inspection Department or Fire Department determines that a dwelling, dwelling unit, rooming house, rooming unit or multiple dwelling, is unfit for human habitation as provided in subsection (D) of this Section, it shall include such findings within the notice of violations provided for in subsection (C) of this Section, and it shall also include a statement of its intent to vacate and placard the dwelling, dwelling unit, rooming house, rooming unit, or multiple dwelling, if compliance with the provisions of the notice of violation has not been secured.

(F) **Order to Vacate.** Whenever a notice of violation, as provided for under subsection (C) of this Section, has not been complied with, the Building and Inspection Department or Fire Department may order the dwelling to be vacated. A copy of such notice to vacate shall be served on the owner, agent, operator or the occupant, as provided in subsection (C) of this Section.

(G) **Vacating an Unfit Dwelling.** Any dwelling or dwelling unit, rooming house, rooming unit or multiple dwelling designated as unfit for human habitation pursuant to subsection (D) of this Section and ordered vacated as provided in subsection (G) of this Section, shall be vacated within such reasonable time as the Building and Inspection Department or Fire Department may specify in the order. No such dwelling, dwelling unit, rooming house or multiple dwelling shall again be used for human habitation and the placard remove until written approval is secured from the Building and Inspection Department or Fire Department.

(H) **Removal of Placard.** No person shall deface or remove the placard from any dwelling, dwelling unit, rooming house, rooming unit or multiple dwelling which has been designated as unfit for human habitation.

(I) **Vacated Dwellings Made Secure.** The owner, agent or operator of any dwelling, dwelling unit, rooming house, rooming unit or multiple dwelling shall make such dwelling, dwelling unit, rooming house, rooming unit or multiple dwelling safe and secure in whatever manner the Building and Inspection Department or Fire Department shall deem necessary. Any vacant building open

at a door or window or other unenclosed opening shall be deemed dangerous to human life and a nuisance within the meaning of this provision.

(J) **Power to Act in Emergencies.** Notwithstanding the notice of violation provisions of this Section, as provided by subsection (C) of this Section, whenever the Building and Inspection Department or Fire Department, at any time, shall determine that violation of this Article exists and that such violation is of such a nature as to require immediate action to abate a hazard or immediate danger to the health, safety, morals or welfare of the occupants of any building or structure or of the public, the Building and Inspection Department or Fire Department may issue an order citing the violation and ordering the immediate abatement or removal or correction so such hazard or danger as to the Building and Inspection Department or Fire Department appears necessary and proper. Such order question any order issued under the provision of this subsection shall be and become effective immediately upon the issuance thereof. The powers granted by this subsection shall be in addition to any and all other rights and powers granted by law.

(K) **Transfer of Interest in Certain Property.** No person having any interest in any property that is described in any notice of any violation of this Article or any order issued under this Article shall sell, transfer, grant, convey, mortgage, lease or otherwise dispose of any such interest in said property so long as any such violation continues to exist, unless such person having the right to sell, transfer, grant, convey mortgage, lease or otherwise dispose of such interest in said property shall first furnish to the intended purchaser, transferee, grantee, done, mortgaged, lessee or other intended recipient of such property interest a true and exact copy of such notice or order and concurrently therewith furnish the Building and Inspection Department and Fire Department with the names and addresses of all such parties.

(L) **Records.** All requests to inspect and/or copy records or documents prepared, maintained and under the control of the City shall be made in accordance with Illinois Freedom of Information Act.

18-7-16 MANDATORY RENTAL DWELLING INSPECTION PROGRAM.

(A) **Inspection Required.** Except as hereinafter provided, no person shall lease, let or otherwise permit occupancy of any rental dwelling within the City, unless the rental dwelling has been inspected by the Building and Inspection Department and/or Fire Department and an Occupancy Permit has been issued for the property. Any person who leases to another any rental dwelling on or before the effective date of this Article may continue leasing said rental dwelling without an inspection and a Certificate of Occupancy for a period of **one (1) year** from the effective date of this Article. In addition, any owner who converts the usage of an owner-occupied dwelling to a rental dwelling during the **five (5) year** period subsequent to the effective date of this Article may lease said rental dwelling without an inspection and a Certificate of Occupancy or a period of **one (1) year** from date of conversion of the owner occupied dwelling to a rental dwelling.

(B) **Inspections Authorized.**

- (1) The Building and Inspection Department and Fire Department are hereby authorized to conduct inspections of any and all rental dwellings or units thereof, within the City to determine compliance with the Revised Code of Ordinances of the City, including this Article.
- (2) The employees and agents of the Building and Inspection Department and Fire Department are hereby authorized to enter, examine and survey all rental dwellings within the City. All inspections shall occur at reasonable hours except in emergency situations where the life, health and/or safety of any individual threatened.

(C) **Frequency, Access for and Notice of Inspection.**

- (1) All rental dwellings shall be inspected by the employee or agents of the Building and Inspection Department and Fire Department at least once every **three (3) years** or upon change of occupancy. If change of occupancy the **three (3) year** period restarts. Inspections may occur more frequently provided there is:

- (a) Reasonable suspicion to believe that there exists within such rental dwelling conditions which present a threat to the health, safety, welfare or general comfort of the residents of such rental dwelling; or
 - (b) A complaint lodged by the residents of the rental dwelling to be inspected; or
 - (c) A request made by a prospective resident accompanied by the consent of the owner or owner's agent of the rental dwelling to be inspected; or
 - (d) A request made by the owner or owner's agent.
- (2) Every owner or owner's agent of any rental dwelling shall provide access to such rental dwelling, or any unit thereof, to the employees or agents of the Building and Inspection Department and Fire Department for purposes of inspecting the rental dwelling or unit thereof for compliance with all applicable standards and regulations set forth in the City Code, as amended. Either the owner, the owner's agent or the occupant shall be offered the opportunity to accompany the inspector during the inspection.
- (3) Notice shall be given to the owner or the owner's agent and the occupant of the rental dwelling or unit thereof at least **five (5) days** in advance of inspections for the **three (3) year** inspection except in those situations described in subsection (C) above. Upon occupancy change, the owner or tenant will need to call the Clerk's office for an appointment.
- (4) Notice of inspection shall be provided to both the owner or owner's agent and occupant and may consist of a letter sent by first class mail, personal service, telephone call, email upon an owner's or occupant's request or, for occupants only, the posting of a door hanger upon the doorknob of the rental dwelling or unit thereof. The form of notice shall be given a City's sole discretion provided the form use substantially achieves the purpose of this "notice" requirement. Where a rental dwelling or unit thereof is occupied by more than **one (1) person**, notice to one occupant of each dwelling unit shall be deemed notice to all occupants of a dwelling unit.
- (5) Notice of Inspection to which an owner or occupant is entitled may be waived by said owner or occupant or agent thereof.
- (D) **Identification of Rental Dwelling and Designation of Owner's Agent.**
- (1) Any person owning, managing or supervising any rental dwelling shall within **ninety (90) days** of the effective date hereof or within **thirty (30) days** of assuming ownership, management or supervision of any rental dwelling, whichever date is later, inform the Building and Inspection Department and Fire Department.
 - (2) Every owner of any rental dwelling, or unit thereof, who does not reside on the premises of such rental dwelling shall appoint and designate an individual to act as an agent in his behalf. Every owner shall notify the Building and Inspection Department, Fire Department and each occupant of the rental dwelling of the name, address and telephone number of the agent.
 - (3) Any individual who is appointed and designated as agent of the owner shall reside in Williamson County, Illinois or within a county which adjoins Williamson County, Illinois. An owner of a rental dwelling may act as his own agent provided he meets the residency requirements set forth herein.

(E) **Occupants to Provide Access for Inspections and Compliance with Article.**

- (1) Each and every occupant of a rental dwelling shall give the owner thereof, his agent or employee or agents of the Building and Inspection Department and Fire Department access to the rental dwelling, or unit thereof under their control, to conduct inspections authorized by this Article.
- (2) Each and every occupant of a rental dwelling shall give the owner thereof, or his agent or his employees, access to any part of such rental dwelling at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provision of this Article or with any standard regulation set for in the City Code, as amended.

(F) **Fees.**

- (1) A fee as provided within **Section 1-7-16(I)**, shall be assessed against the owner and/or tenant by the Building and Inspection Department for inspection of any rental dwelling unit pursuant to this Article. Fees for inspection at occupancy change are due at the time of inspection. Notice of Assessment of the fee for **three (3) year** inspections shall be served upon the owner by regular mail.
- (2) Any inspection fees assessed by reason of an inspection initiated by the Building and Inspection Department and/or Fire Department remaining unpaid after **thirty (30) days** shall be a debt due and owing the City and shall be a lien upon the real estate and, as such, may be collected in accordance with applicable law. In the event a lien is filed with the Recorder of Deeds of Williamson County, a reasonable attorney fee, an administration fee for preparation of the lien and the cost of recording shall be assessed and included as part of the lien. In the event the City incurs any attorney fees in enforcing any lien or in otherwise collecting any fee, all such reasonable attorney's fees shall be paid by the part against whom collection is made.

(G) **Occupancy Permit.** Except as provided under temporary occupancy permits and as except provided within **Section 18-7-16(A)** herein, it shall be unlawful for any person to occupy any unlawful for any owner or agent to allow another person to occupy any rental dwelling unit unless the Building and Inspection Department has issued a valid occupancy permit. The Building and Inspection Department and Fire Department shall not issue an occupancy permit until an inspector of the Building and Inspection Department and/or the Fire Department has inspected the dwelling unit and the dwelling unit conforms to the requirements of this Article. An occupancy permit shall be valid for **three (3) years** from date of issuance unless sooner revoked; the existence of an occupancy permit for a dwelling unit shall not prevent inspection of a dwelling unit.

(H) **Temporary Occupancy Permit.** A rental dwelling or unit therein not in full compliance with this Article may be occupied while repairs are being made if the Building and Inspection Department has issued a temporary occupancy permit. No temporary occupancy permit shall be issued until the Building and Inspection Department and Fire Department have inspected the dwelling unit and determined that the occupancy thereof does not constitute a serious hazard to the health or safety of the occupants as indicated by the inspection checklist. A temporary occupancy permit shall be valid for up to **thirty (30) days** and may be renewed once upon written request.

(I) **Occupancy Permit Fees.** Every occupancy permit or temporary permit shall be filed with the Building and Inspection Department on a prescribed form. The fee (which includes initial inspection and **one (1)** subsequent re-inspection, if required) shall be **Twenty-Five Dollars (\$25.00)** per dwelling unit. Any fee not timely paid may be collected as provided within **Section 18-7-16(F)** herein.

Every application for any occupancy, temporary or renewal permit shall include the name, address and telephone number of the applicant and applicant's relationship to the property (i.e., tenant, owner or occupant); name, address and telephone number of the owner, the address and general

description of the premises to be occupied; and such other necessary information as may be required by the City.

(J) **Revocation of Permits.** The Building and Inspection Department, upon **five (5) days'** notice to the owner and occupant in writing, may revoke any occupancy permit or temporary permit if:

- (1) The Building and Inspection Department determines that material information contained in the application for said permit is false;
- (2) The occupant refuses to allow an unauthorized inspection of the premises at any time;
- (3) The work authorized by a temporary occupancy permit is not proceeding; or
- (4) The occupant or owner fails to comply with a corrective action order or fails to maintain the property in compliance with this Article.
- (5) The permit was issued in error by the Building and Inspection Department.

(K) **Utilities Not to be Provided.** The City will refuse to provide and/or may disconnect water and sewer service until a valid occupancy or temporary occupancy permit is obtained and presented by the owner/tenant to the City's Water Department.

(L) **Corrective Action Order.** Whenever the Building and Inspection Department or Fire Department determines that any occupancy or any dwelling unit, accessory structure or other portion of premises is in violation of this Article, it shall so notify the owner and/or occupant in writing and order appropriate corrective action.

- (1) **Contents of Order.** The order to take corrective actions shall include the following information:
 - (a) A description of the premises sufficient for identification;
 - (b) A statement indicating the nature of the violation;
 - (c) A statement of the remedial action (repairs, reduced number of occupants, etc.) necessary to effect compliance;
 - (d) The date (at least **five (5) days** unless an emergency condition) by which the violation must be corrected;
 - (e) Statement that if the violation is not corrected, the occupancy permit may be revoked, a complaint for violation issued, and/or the property may be declared unfit for human habitation with attendance consequences. If a Corrective Action Order has been served as provided herein, no additional Notice of Revocation is required to be given.
- (2) **Service of Order.** The corrective action order shall be deemed properly served upon the owner, agent or occupant if it is:
 - (a) Served upon each personally or sent by registered or certified mail to the last known address of each with service be effective upon deposit in the mail; AND
 - (b) Posted in a conspicuous placed on or about the dwelling or premises.
- (3) **Transfer of Ownership Prohibited.** It shall be unlawful for the owner of any dwelling who has been served a corrective action order to sell, transfer, mortgage, lease or otherwise dispose of the dwelling or its ownership interest until he/she has either: (i) effected compliance with the provisions of this Article; or (ii) furnished the grantee, transferee, mortgagee or lessee a true copy of the corrective action order and has given the Building and Inspection Department and Fire Department a signed and notarized statement from said grantee, transferee, mortgagee or lessee that acknowledges receipt of such corrective action order and unconditionally accepts responsibility for making the required repairs.

- (4) **Access by Owner or Operator.** The occupants of every dwelling unit shall give the owner or operator or his agent or employee, free access thereto at any reasonable time in order to allow him to make any inspection, alteration, maintenance or repair necessary to effect compliance with this Article.

It is unlawful for any person to occupy or let or hold out to another for occupancy any dwelling unit for the purpose of living therein, where such dwelling unit does not comply with the steps required by the corrective action order.

(M) **Annual Property Owner's Permit Required.** All persons, partnerships, corporations or other entities owning residential property for rent, lease or contract for deed or that the owner does not reside at in the City shall obtain an annual property owner's permit. All permits expire on **April 30** of each year. **(Ord. No. 7-2023; 03-27-23)**

(N) **Annual Permit Fee.** Annual permit shall be filed with the Code Inspector on a form to be provided by the City. The fee shall be **Twenty-Five Dollars (\$25.00)** per dwelling unit.

18-7-17 UNLAWFUL INTERRUPTION OF TENANT OCCUPANCY.

(A) **Prohibited.** It is unlawful for any landlord or any person acting at their direction to knowingly oust or dispossess or attempt to oust or dispossess any tenant from a dwelling unit without authority of law, by plugging, changing, adding or removing any lock or latching device; or by locking any entrance into said unit; or by removing any door or window from said unit; or by interfering with the services to said unit, including, but not limited to, electricity, gas, hot or cold water, plumbing, heat or telephone services; or by removing a tenant's personal property from said unit; or by the use of force or threat of violence, injury or force to a tenant's person or property; or by any other act rendering a dwelling unit or any part thereof or any personal property located therein inaccessible or uninhabitable.

(B) The following shall constitute a valid defense to any prosecution by City of a complaint alleging violation of subsection (A) above (although nothing herein shall authorize any landlord or other person to take any action or to commit any act otherwise prohibited by state or federal law):

- (1) A landlord acts in compliance with the laws of Illinois pertaining to forcible entry and detainer and engages the Sheriff of Williamson County to forcibly evict a tenant or his personal property; or
- (2) A landlord acts in compliance with the laws of Illinois pertaining to distress for rent; or
- (3) A landlord acts pursuant to court order; or
- (4) A landlord interferes temporarily with possession only as necessary to make needed repairs or inspection and only as provided by law; or
- (5) The tenants with a right to possession of the dwelling unit have been absent therefrom for **thirty (30) consecutive days** without advising the landlord of such absence or their intent to return and the current rent is **thirty (30)** or more days overdue and after diligent inquiry the landlord has valid reason to believe that tenants have abandoned the premises and do not intend to return; or
- (6) After diligent inquiry the landlord has valid reason to believe that the tenants identified within a written lease have surrendered possession of the premises and do not intend to return and by the express language of said lease document the lease term has expired for at least **ten (10) days** and the landlord has not accepted any rental or other payment after expiration of the lease term for rental for periods after expiration of the lease term.

18-7-18 NONLIABILITY OF CITY OFFICIALS. No officer, agent or employee of the City shall be personally liable for any damage to persons or property resulting from any act required or permitted in the discharge of the duties of such officer, agent or employee under the provisions of this Article. Any lawsuit of any nature brought against such officer, agent or employee as a result of any act,

requirement or permitted function in the discharge of the official duties of such officer, agent or employee aforesaid shall be defended at the sole expense of the City until a complete and final determination of such lawsuit.

18-7-19 **PENALTY.** Any person who shall violate or assist in the violation of any provisions of this Article, shall upon finding of guilt, be fined not more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day that such violation continues shall constitute a separate offense. In addition, said persons shall be subject to an action for injunction to eliminate or to prevent violations of this Article or any other applicable code of the City.

(Ord. No. 3-2022; 02-14-22)

CHAPTER 20 - LIBRARY

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CHAPTER 20

LIBRARY

ARTICLE I – LIBRARY BOARD

20-1-1 **ESTABLISHED.** There is hereby established a Public Library for the use and benefit of the inhabitants of the City. **(75 ILCS 5/1-2)**

20-1-2 **APPOINTMENT – COMPENSATION.** The Mayor shall, with the approval of the City Council, proceed to appoint a board of **nine (9) directors** for the Public Library, chosen from the citizens at large with reference to their fitness for such office. **[Not more than one (1) member of the City Council shall be, at any one time, a member of the Board.] (75 ILCS 5/4-1)**

Trustees of the Library Board shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties from library funds. **(75 ILCS 5/4-5)**

20-1-3 **TERM.** The Mayor shall, before **July 1st** of each year, appoint **three (3) trustees** to take the place of the retiring trustees who shall hold office for **three (3) years** and until their successors are appointed. By and with the advice and consent of the City Council, the Mayor may remove any trustee as provided in **Section 1-2-47** of this Code. **(75 ILCS 5/4-1.1)**

20-1-4 **VACANCIES.** Vacancies shall be declared in the office of a trustee by the board when the trustee declines or is unable to serve, or is absent without cause from all regular board meetings for a period of **one (1) year**, or is convicted of a misdemeanor for failing, neglecting, or refusing to discharge any duty imposed upon a trustee or becomes a nonresident of the City, or who fails to pay the library taxes levied by the corporate authorities. **(75 ILCS 5/4-4)**

20-1-5 **OATH OF OFFICE; ORGANIZATION; MEETINGS.**

(A) Within **sixty (60) days** after their appointment, the new trustees shall take their oath of office and meet to organize the board. The oath shall consist of the following:

“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 trustee according to the best of my ability.”

(B) The first action taken at the organizational meeting of the board shall be the election of a president and a secretary and such other officers as the board may deem necessary, and the board shall further provide in the bylaws of the board as to the length of the terms in office. The trustees shall determine the time and place of all official meetings of the board at which any legal action may be taken and shall post notice thereof at the public library maintained by the board and at not less than one public place within the corporate confines of the area of library service one day in advance thereof. **(75 ILCS 5/4-6)**

20-1-6 **CUSTODIAN OF FUNDS.** The City Treasurer shall be the custodian of all funds of the Library Board of Trustees. The cost of any bond necessary to satisfy the requirements of **Chapter 75, Section 5/4-9 of the Illinois Compiled Statutes** shall be borne by the library.

20-1-7 POWERS AND DUTIES. The Board of Library Trustees shall carry out the spirit and intent of this Chapter in establishing, supporting and maintaining a public library or libraries for providing library service and, in addition to, but without limiting other powers conferred by this Chapter shall have the following powers:

(A) To make and adopt such bylaws, rules and regulations for their own guidance and for the government of the library as may be expedient, not inconsistent with this Chapter.

(B) To have the exclusive control of the expenditure of all moneys collected for the library and deposited to the credit of the library fund;

(C) To have the exclusive control of the construction of any library building and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose;

(D) To purchase or lease real or personal property, and to construct an appropriate building or buildings for the use of a library established hereunder, using, at the board's option, contracts providing for all or part of the consideration to be paid through installments at stated intervals during a certain period not to exceed **twenty (20) years** with interest on the unpaid balance at any lawful rate for municipal corporations in this State, except that contracts for installment purchases of real estate shall provide for not more than **seventy-five percent (75%)** of the total consideration to be repaid by installments, and to refund at any time any installment contract entered into pursuant to this paragraph by means of a refunding loan agreement, which may provide for installment payments of principal and interest to be made at stated intervals during a certain period not to exceed **twenty (20) years** from the date of such refunding loan agreement, with interest on the unpaid principal balance at any lawful rate for municipal corporations in this State, except that no installment contract or refunding loan agreement for the same property or construction project may exceed an aggregate of **twenty (20) years**;

(E) To remodel or reconstruct a building erected or purchased by the board, when such building is not adapted to its purposes or needs;

(F) To sell or otherwise dispose of any real or personal property that it deems no longer necessary or useful for library purposes, and to lease to others any real property not immediately useful, but for which plans for ultimate use have been or will be adopted, however, the corporate authorities shall have the first right to purchase or lease;

(G) To appoint and to fix the compensation of a qualified librarian, who shall have the authority to hire such other employees as may be necessary, to fix their compensation, and to remove such appointees, subject to the approval of the library board, (but these powers are subject to **Division 1 of Article 10 of the Illinois Municipal Code** in municipalities in which that Division is in force). The board may also retain counsel and professional consultants as needed; (**65 ILCS 5/10-1-1**)

(H) To contract with any public or private corporation or entity for the purpose of providing or receiving library service or of performing any and all other acts necessary and proper to carry out the responsibilities and the provisions of this Chapter. This contractual power includes, but is not limited to participating in interstate library compacts and library systems, and contracting to supply library services and for the expenditure of any Federal or State funds made available to the municipality or to the State of Illinois for library purposes;

(I) To join with the board or boards of any one or more libraries in this State in maintaining libraries, or for the maintenance of a common library or common library services for participants, upon such terms as may be agreed upon by and between the boards;

(J) To enter into contracts and to take title to any property acquired by it for library purposes by the name and style of "**The Library Board of Trustees of the City**" and by that name to sue and be sued.

(K) To exclude from the use of the library any person who willfully violates the rules prescribed by the board;

(L) To extend the privileges and use of the library; including the borrowing of materials on an individual basis by persons residing outside of the City. If the board exercises this power, the privilege of library use shall be upon such terms and conditions as the board shall, from time to time, by its regulations, prescribe and for such privileges and use, the board shall charge a nonresident

fee at least equal to the cost paid by residents of the City, with the cost to be determined according to the formula established by the **Illinois State Library**. The nonresident fee shall not apply to privilege and use provided under the terms of the library's membership in a library system operating under the provisions of the **Illinois Library System Act** or under the terms of any reciprocal agreement with a public or private corporation or entity providing a library service or to a nonresident who is an individual or as a partner, principal stockholder, or other joint owner owns taxable property or is a senior administrative officer of a firm, business, or other corporation owning taxable property within the municipality upon the presentation of the most recent tax bill upon that taxable property, provided that the privilege and use of the library is extended to only one such nonresident for each parcel of such taxable property.

(M) To exercise the power of eminent domain subject to the prior approval of the corporate authorities under the provisions of **Illinois Compiled Statutes, Chapter 75, Sec. 5/5-1 and 5/5-2.**

(N) To join the public library as a member in the **Illinois Library Association and the American Library Association**, non-profit, non-political, **(501-C-3)** associations, as designated by the federal Internal Revenue Service, having the purpose of library development and librarianship; to provide for the payment of annual membership dues, fees and assessments and act by, through, and in the name of such instrumentality by providing and disseminating information and research services, employing personnel and doing any and all other acts for the purpose of improving library development;

(O) To accumulate and set apart as reserve funds, portions of the unexpended balances of the proceeds received annually from taxes or other sources for the purpose of providing self-insurance against liabilities relating to the public library;

(P) To invest funds pursuant to the **Illinois Compiled Statutes, Chapter 30, Section 235/1, et seq. (75 ILCS 5/4-7)**

20-1-8 **ADDITIONAL POWERS AND DUTIES.** In addition to all other powers and authority now possessed by it, the Board of Library Trustees shall have the following powers:

(A) To lease from any public building commission created pursuant to the provisions of the **Public Building Commission Act**, as now or hereafter amended, any real or personal property for library purposes for a period of time not exceeding **twenty (20) years; (See 50 ILCS Sec. 20/1 et seq.)**

(B) To pay for the use of this leased property in accordance with the terms of the lease and with the provisions of the **Public Building Commission Act**, as now or hereafter amended;

(C) Such lease may be entered into without making a previous appropriation for the expense thereby incurred. However, if the board undertakes to pay all or any part of the costs of operating and maintaining the property of a public building commission as authorized in subparagraph (D) of this section, such expenses of operation and maintenance shall be included in the annual budget of such board annually during the term of such undertaking;

(D) In addition, the board may undertake, either in the lease with a public building commission or by separate agreement or contract with a public building commission, to pay all or any part of the costs of maintaining and operating the property of a public building commission for any period of time not exceeding **forty (40) years. (75 ILCS 5/4-7.1)**

20-1-9 **SELECTION AND USE OF LIBRARY MATERIALS.** The Board of Library Trustees shall establish, and review at least biennially, a written policy for the selection of library materials and the use of library materials and facilities. No employee may be disciplined or dismissed for the selection of library materials when the selection is made in good faith and in accordance with the written policy required to be established pursuant to this section. **(75 ILCS 5/4-7.2)**

20-1-10 **FREE TO PUBLIC.** The library established shall be free for the use of the inhabitants of the City, always subject to such rules and regulations as the Library Board of Trustees may adopt, in order to render the use of the library and reading room to the greatest benefit to the greatest number. **(75 ILCS 5/4-7)**

20-1-11 ANNUAL REPORT. Within **thirty (30) days** after the expiration of each fiscal year of the municipality, the Library Board of Trustees shall make a report of the condition of their trust on the last day of the fiscal year to the City Council. This report shall be made in writing and shall be verified under oath by the secretary or some other responsible officer of the Library Board of Trustees. The report shall contain the following:

- (A) An itemized statement of the various sums of money received from the Library Fund and from other sources;
- (B) An itemized statement of the objects and purposes for which those sums of money have been expended;
- (C) A statement of the number of books and periodicals available for use and the number and character thereof circulated;
- (D) A statement of the real and personal property acquired by legacy, purchase, gift or otherwise;
- (E) A statement of the character of any extensions of library service which have been undertaken;
- (F) A statement of the financial requirements of the library for the ensuing fiscal year for inclusion in the appropriation of the corporate authority and of the amount of money which, in the judgment of the Library Board of Trustees, it will be necessary to levy for library purposes in the next annual tax levy ordinance;
- (G) A statement as to the amount of accumulations and the reasons therefor;
- (H) A statement as to any outstanding liabilities including those for bonds still outstanding or amounts due for judgments, settlements, liability insurance, or for amounts due under a certificate of the board;
- (I) Any other statistics, information and suggestions that may be of interest.

A report shall also be filed at the same time with the **Illinois State Library. (75 ILCS 5/4-10)**

20-1-12 DONATIONS. Any person desiring to make donations of money, personal property or real estate for the benefit of such library shall have the right to vest the title of the money or real estate so donated in the Library Board of Trustees to be held and controlled by the board when accepted, according to the terms of the deed, gift, devise or bequest of such property, and as to such property, the Board of Trustees shall be held and considered as special trustees. **(75 ILCS 5/1-6)**

20-1-13 DISTURBANCE PROHIBITED - PENALTY. Any person who shall create any disturbance while in the rooms of the Public Library, or who shall be guilty of any conduct calculated to annoy or disturb others in said library and who shall not cease said conduct when requested to do so by the Librarian or other person in charge, shall be subject to arrest under the provisions of this Chapter.

20-1-14 INJURY TO OR FAILURE TO RETURN BOOKS - PENALTY. No person shall maliciously cut, injure, deface, tear, or destroy any book, newspaper, periodical, or picture belonging to the Public Library. No person shall fail to return any book or books taken from the Library at the time when, by the rules of the Library, the same should be returned. The person shall promptly pay the fine provided for by the rules and regulations governing the Library, as the same have been or may be established by the Library Board of Trustees.

20-1-15 REFERENCE. The City Council does hereby include by reference, all provisions of **Chapter 75; Paragraph 5/4, et seq. of the Illinois Compiled Statutes** applicable to the City Library that are not provided heretofore.

CHAPTER 21 - LIQUOR

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CHAPTER 21

LIQUOR

ARTICLE I - GENERALLY

21-1-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

"ALCOHOL" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(235 ILCS 5/1-3.05)**

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(235 ILCS 1-3.04)**

"CATERER RETAILER" means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(235 ILCS 5/1-3.34)**

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(235 ILCS 5/1-3.24)**

"CORPORATION" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

"DISTILLED SPIRITS". See "Spirits".

"EVENT" means a single theme. **(Rules and Regulations 100.10(o))**

"HOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(235 ILCS 5/1-3.25)**

"MANAGER" OR "AGENT" means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

"MAYOR" means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

"MEAL" means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(235 ILCS 5/1-3.06)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PARTNER" is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

"PREMISES/PLACE OF BUSINESS" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

"PRIVATE FUNCTION" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

"PUBLIC PLACE" means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

"RESIDENT" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license and is a registered voter. **(Rule 100.10(a))**

"RESTAURANT" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(235 ILCS 5/1-3.23)**

"RETAILER" means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.17)**

"SALE" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(235 ILCS 5/1-3.21)**

"SELL AT RETAIL" and "SALE OF RETAIL" refer to any mean sales for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.18)**

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(235 ILCS 5/1-3.30)**

"SPECIAL EVENTS RETAILER" means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(235 ILCS 5/1-3.17.1)**

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(235 ILCS 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. **(235 ILCS 5/1-3.22)**

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(235 ILCS 5/1-3.03)**

[All references to "Rules" refer to Illinois Liquor Control Commission Rules located in Title 11; Subtitle A; Chapter 1; Part 1; Section 100.5 et seq. of the Illinois Administration Code.]

ARTICLE II - LICENSES

21-2-1 LICENSE REQUIRED. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois**.

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(235 ILCS 5/4-1)**

21-2-2 APPLICATIONS. The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Municipal Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

(A) The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the address and name of such person.

(B) The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **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. **(235 ILCS 5/7-1)**

21-2-3 EXAMINATION OF APPLICANT. The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(235 ILCS 5/4-5)**

21-2-4 PROHIBITED LICENSEES. Except as otherwise provided in paragraph (U) of this Section, no license of any kind pursuant to state law in **235 ILCS 5/7-1** shall be issued by the Mayor to the following:

- (A) A person who is not a resident of this City;
- (B) A person who is not of good character and reputation in the community in which he resides;
- (C) A person who is not **twenty-one (21) years** of age except when the person is part of a corporation or LLC; **(Ord. No. 14-2019; 06-10-19)**
- (D) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- (E) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (G) A person whose license issued under this Act has been revoked for cause;
- (H) A person who, at the time of the application for renewal of any license issued hereunder, would not be eligible for such license upon first application;
- (I) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance;
- (J) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;
- (K) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the **"Business Corporation Act of 1983"** to transact business in Illinois;
- (L) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;
- (M) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation;
- (N) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;
- (O) Any law enforcing public official, any mayor, alderman, or a member of a city council or commission; and no such official shall be interested directly in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such

license is approved by the State Liquor Control Commission and except that a license may be granted, in a City with a population of **fifty thousand (50,000)** or less, to any alderman, in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the council to which the license holder is elected;

(P) A person who is not a beneficial owner of the business to be operated by the licensee;

(Q) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, or as prescribed by a statute replaced by any of the aforesaid statutory provisions;

(R) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(S) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Section 5/6-21 of Chapter 235 of the Illinois Compiled Statutes;

(T) A person who is delinquent in the payment of any indebtedness or obligation to the City;

(U) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Mayor shall determine if all provisions of this paragraph (U) have been met before any action on the corporation's license is initiated;

(V) A co-partnership to which a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamps or federal wagering stamp by the federal government for the current tax period;

(W) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of such corporation has been issued a federal wagering stamp for the current tax period. **(235 ILCS 5/6-2)**

21-2-5 **REQUISITES FOR MANAGER.** No licensee shall employ any person to manage his licensed liquor establishment, unless such person possesses the same qualifications required of a licensee in **Section 21-2-4**, except for residency and citizenship. No licensee shall permit any person to act as a manager of his liquor establishment, unless such manager has been approved by the Local Liquor Commissioner.

21-2-6 **LICENSE CLASSES, FEES, LIMITATION.** Retail liquor licenses shall be divided into the following classes:

(A) **Class "A" Licenses** shall permit the retail sale of alcoholic liquor as the major business, for consumption on the premises where sold and not for resale in any form. The annual fee shall be **One Thousand Two Hundred Fifty Dollars (\$1,250.00)**. This classification excludes private clubs. There shall be no more than **seven (7)** Class "A" licenses at any one time. **(Ord. No. 45-2018; 12-26-18)**

(B) **Class "B" Licenses** shall permit the retail sale of alcoholic liquor in sealed packages, but not for consumption on the premises where sold. The annual fee shall be **One Thousand Two Hundred Fifty Dollars (\$1,250.00)**. There shall be no more than **twelve (12)** Class "B" licenses at any one time. **(Ord. No. 6-2018; 04-09-18)**

(C) **Class "C" Licenses** shall permit the retail sale of packaged beer and wine only, in conjunction with the sale of gasoline, and other goods and services, not to be consumed on the premises. The annual fee shall be **One Thousand Two Hundred Fifty Dollars (\$1,250.00)**. There shall be no more than **four (4)** Class "C" licenses at any one time. **(Ord. No. 16-2023; 05-08-23)**

(D) **Class "D" Licenses** shall permit the sale of beer and wine only for consumption on the premises where the major business is a restaurant, or where recreational activities are the major business, or both. The annual fee shall be **One Thousand Dollars (\$1,000.00)**. There shall be no more than **twelve (12)** Class "D" licenses at any one time. **(Ord. No. 6-2018; 04-09-18)**

(E) **Class "E" Licenses** shall permit the retail sale of alcoholic liquor for consumption on the premises in conjunction with a restaurant where the restaurant is the major business, or in conjunction with recreational activities, such as bowling, volleyball, etc., where the recreational activities are the major business, or both. The annual fee for such license shall be **One Thousand Two Hundred Fifty Dollars (\$1,250.00)**. There shall be no more than **fourteen (14)** Class "E" licenses at any one time. **(Ord. No. 16-2023; 05-08-23)**

(F) **Class "F" Licenses** shall permit the retail sale of alcoholic liquor for consumption on the premises by private clubs. The annual fee shall be based on a fee of **One Dollar Fifty Cents (\$1.50)** per member with a maximum of **Eight Hundred Fifty Dollars (\$850.00)**. There shall be no more than **six (6)** Class "F" licenses at any one time. **(Ord. No. 10-2014; 05-12-14)**

(G) **Class "G" Licenses** shall permit the retail sale of alcoholic liquor for consumption by caterers, on-site or off-site, whether the location is licensed or unlicensed as an incidental part of food service. The consumption of alcoholic liquor shall be permitted only inside the site, unless special permission is obtained prior to the event. The annual fee shall be **One Thousand Dollars (\$1,000.00)**. There shall be no more than **two (2)** Class "G" licenses at any one time. **(Ord. No. 6-2018; 04-09-18)**

(H) **Class "H" Licenses** shall permit the retail sale of beer or wine, or both at a special event, only for consumption at the described location and on the specific dates specified by the special event retail licenses. The fee for a special event license shall be **Twenty-Five Dollars (\$25.00)** per day. The fee may be waived or reduced by the Local Liquor Commissioner for educational, fraternal, civic or religious non-profit organizations. A special event license shall not be granted for any one location in excess of **fifteen (15) days** per year. The organization shall provide proof of dram shop insurance as required by this Chapter. A license issued under this provision shall not be transferred or assigned.

(I) **Class "I" Licenses** shall permit the retail sale of alcoholic liquor for consumption on the business premise of any public place where goods, services, facilities, privileges or advantages are extended, offered, sold, or otherwise made available to the public. There shall be no more than **six (6)** Class "I" licenses at any one time. The annual fee for a Class "I" license shall be **One Thousand Two Hundred Fifty Dollars (\$1,250.00)** per year. **(Ord. No. 3-2023; 02-13-23)**

(J) **Class "J" Licenses** shall permit Micro Brewery/Distillery/Winery production only. The annual fee shall be **One Thousand Dollars (\$1,000.00)**. There shall be no more than **two (2)** Class "J" licenses at any one time. **(Ord. No. 6-2018; 04-09-18)**

(K) **"Combination" Licenses** shall be available for any two of the above licenses. The annual fee shall be at the same charge as purchasing the licenses separately. (For example, if an establishment has a Class "A" and wants to add a Class "B", the cost would be $\$1,250 + \$1,250 = \$2,500$ for the year). Combination licenses will be available, beginning with the **August 1, 2021** renewal period. **(Ord. No. 2-2021; 03-08-21)**

21-2-7 TERM OF LICENSE; DISPOSITION OF FEES. Retail liquor licenses issued under this Code shall be valid for **one (1) year** periods upon the payment of the license fee as herein set forth, unless sooner revoked or suspended. The **one (1) year** period shall be from **August 1st to July 30th** of each year. The license fee shall be payable in advance by the applicant for a license at the time the application for license is submitted. 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 Clerk, who shall deposit the fees in the City General Fund. **(Ord. No. 2-2021; 03-08-21)**

21-2-8 **NATURE OF LICENSE.** A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. **(235 ILCS 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

21-2-9 **LIMITATION OF LICENSES.**

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(235 ILCS 5/4-1)**

21-2-10 **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)**

21-2-11 **DISPLAY OF LICENSE.** Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(235 ILCS 5/6-24)**

21-2-12 **RECORD OF LICENSES.** The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours.** **(235 ILCS 5/4-1)**

21-2-13 **CESSATION OF BUSINESS.**

(A) **Death, Insolvency, Bankruptcy.** A license issued under the provisions of this Chapter shall not be subject to attachment, garnishment, execution or encumbrance. The license shall not descend by the laws of estate, but shall cease upon the death of the licensee, except that the

Administrator or executor of the estate of any deceased licensee, or the trustee of any insolvent or bankrupt licensee may continue to operate the business upon the entry of an appropriate court order and submission of the order to the City until the expiration of the license, but no longer than **six (6) months** after the death, bankruptcy, or insolvency of the licensee.

(B) **Written Notice Required.** A licensee who ceases to do business or who closes the business for more than **ten (10) days** shall give the Liquor Control Commissioner written notice of such cessation or closing within the **ten (10) day** period following the closing. Any licensee who ceases to do business or closes the business for a period of more than **thirty (30) successive days**, shall be subject to having the license revoked.

(C) **Timely Commencement of Business.** Any licensee who obtains a license pursuant to this Chapter, and who fails to commence business operations on the date specified on the license shall give the Local Liquor Commissioner written notice specifying the reasons for the failure to commence business operations. Any licensee who fails to show good cause shall be subject to having the license revoked. **(Ord. No. 5-2002; 03-11-02)**

ARTICLE III - REGULATIONS

21-3-1 **HOURS.** It shall be unlawful for any licensee to give, sell, serve or offer for sale, or in any manner provide alcoholic liquor, spirits, beer, or wine in the City during the following hours:

Sunday	From	2:00 A.M.	to	12:00 P.M.	(Ord. No. 24-2018; 08-27-18)
Monday	From	2:00 A.M.	to	5:30 A.M.	
Tuesday	From	2:00 A.M.	to	5:30 A.M.	
Wednesday	From	2:00 A.M.	to	5:30 A.M.	
Thursday	From	2:00 A.M.	to	5:30 A.M.	
Friday	From	2:00 A.M.	to	5:30 A.M.	
Saturday	From	2:00 A.M.	to	5:30 A.M.	

"Last call" shall occur at **1:30 A.M.** and no customers shall be admitted into the premises after **1:30 A.M.** No alcoholic liquor shall be sold or served and all licensed premises shall remain closed during the hours specified hereinabove. All patrons or customers shall leave the premises at the specified closing time and shall not remain or enter the premises during the specified closing time.

The times referred to above shall refer to Central Standard Time, or when Daylight Savings Time is in effect, shall refer to Daylight Savings Time.

Restaurants and other service establishments may remain open during the hours specified hereinabove, however, no alcoholic liquor shall be sold or delivered. **(Ord. No. 5-2002; 03-11-02) (235 ILCS 5/4-1)**

21-3-2 **HAPPY HOUR RESTRICTIONS.**

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

- (B) No retail licensee or employee or agent of such licensee shall:
- (1) Sell more than **one (1) drink** of alcoholic liquor for the price of **one (1) drink** of alcoholic liquor;
 - (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided by **235 ILCS 5/6-28.5**;
 - (3) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
 - (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licenses premises; or
 - (5) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (4).

(C) Permitted happy hours and meal packages, party packages, and entertainment packages.

- (1) As used in this Section:
 - (a) **"Dedicated event space"** means a room or rooms or other clearly delineated space within a retain licensee's premises that is reserved for the exclusive use of party package invitees during the entirety of a party package. Furniture, stanchions and ropes,

or other room dividers may be used to clearly delineate a dedicated event space.

- (b) **"Meal package"** means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting, or any combination thereof for a fixed price by a retail licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.
 - (c) **"Party package"** means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.
- (2) A retail licensee may:
- (a) offer free food or entertainment at any time;
 - (b) include drinks of alcoholic liquor as part of a meal package;
 - (c) sell or offer for sale a party package only if the retail licensee:
 - (i) offers food in the dedicated event space;
 - (ii) limits the party package to no more than **three (3) hours**;
 - (iii) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and
 - (iv) excludes individuals not participating in the party package from the dedicated event space;
 - (d) include drinks of alcoholic liquor as part of a hotel package;
 - (e) negotiate drinks of alcoholic liquor as part of a hotel package;
 - (f) provide room service to persons renting rooms at a hotel;
 - (g) sell pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes, or bottles of alcoholic liquor which are customarily sold in such manner, or sell bottles of spirits;
 - (h) advertise events permitted under this Section;
 - (i) include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by a municipal ordinance that (i) restricts dates of operation to dates during which there is an event at an adjacent stadium, (ii) restricts hours of serving alcoholic liquor to **two (2) hours** before the event and **one (1) hour** after the event, (iii) restricts alcoholic liquor sales to beer and wine, (iv) requires tickets for admission to the establishment, and (v) prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single events only; and
 - (j) discount any drink of alcoholic liquor during a specified time period only if:
 - (i) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;
 - (ii) the period of time during which any drink of alcoholic liquor is discounted does not exceed **four (4) hours** per day and **fifteen (15) hours** per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;

- (iii) the drink of alcoholic liquor is not discounted between the hours of **10:00 P.M.** and the licensed premises' closing hour; and
- (iv) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least **seven (7) days** prior to the specified time.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by **Article IV** of this Chapter. **(235 ILCS 5/6-28)**

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(235 ILCS 5/6-11(e))**

21-3-4 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(235 ILCS 5/7-14)**

21-3-5 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(235 ILCS 5/6-12)**

21-3-6 TRANSPORTING, ETC., IN MOTOR VEHICLES. No person shall, within this municipality, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

21-3-7 OPEN LIQUOR - CUP-TO-GO PROHIBITED. The licensee shall not knowingly permit any person to leave his premises with open liquor or in a "**cup-to-go**".

21-3-8 LIQUOR IN VEHICLES; UNDERAGE. The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A) If such liquor is found on the person of one of the occupants therein; or
 (B) If such vehicle contains at least one occupant over **twenty-one (21) years of age.**

21-3-9 RESTRICTED RESIDENTIAL AREAS. It shall be unlawful to establish a retail liquor business within the municipality in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

21-3-10 ELECTION DAYS. All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Code.

21-3-11 UNLAWFUL ACTS. It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

- (A) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Mayor.
 (B) Drink any alcoholic liquors in any public park, except with the permission of the Mayor.
 (C) Drink any alcoholic liquors in any private property without permission of the owner thereof.
 (D) Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

21-3-12 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward]**, or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

- (A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;
 (B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
 (C) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
 (D) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;
 (E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-13 **SANITARY CONDITIONS.** All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(410 ILCS 650/1, et seq.)**

21-3-14 **DISEASED EMPLOYEES.** It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(410 ILCS 650/10)**

21-3-15 **HEALTH PERMIT.** Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-16 **PEDDLING.** It shall be unlawful to peddle alcoholic liquor in this municipality.
(235 ILCS 5/4-1)

21-3-17 **GAMBLING.** It is unlawful to keep, place, maintain or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, except in the following instances:

(A) **Video Gaming.** Video Gaming Terminal games at a licensed liquor establishment, licensed fraternal organization, or licensed veteran's establishment, or licensed truck stop establishment when conducted in accordance with the Video Gaming Act, and licensed as follows:

- (1) **Licensing of Video Gaming Terminals.** Each terminal operator as defined by the Video Gaming Act shall obtain a license for each gaming terminal through the City. The holder of each terminal license shall pay a fee of **Fifty Dollars (\$50.00)** per gaming terminal to the City, and said license shall be renewed annually at a fee of **Fifty Dollars (\$50.00)** per terminal to the City. Each such license shall terminate on **January 31** of the next year following its issuance. This fee change will be effective with the 2022 license.

(230 ILCS 40/1 et seq.) (Ord. No. 2-2021; 03-08-21)

21-3-18 **OCCUPANCY AND HEALTH PERMIT.** Every licensee shall obtain the maximum occupancy of the licensed premises from the Herrin Fire Department prior to opening for business. Those businesses in existence on the effective date of this Code shall have **fifteen (15) days** from the date of this Code to obtain and post the permitted maximum occupancy, as determined by the Fire Department. The maximum occupancy shall be prominently and continuously posted in the licensed establishment.

Every licensee shall have, at all times, a valid operating permit from the Williamson County Health Department, which regulates health standards. **(Ord. No. 09-2003; 03-10-03)**

21-3-19 **OPEN VIEW INTO INTERIOR.**
(A) In premises upon which the sale of alcoholic liquor for consumption upon the premises is licensed (other than as a restaurant, hotel, or club, as defined in the aforesaid Act of the General Assembly, other than one situated on the first or ground floor), no screen, blind, curtain, partition, article, or thing shall be permitted in the windows or upon doors of such licensed premises nor inside such premises, which shall prevent a clear view into the interior of such licensed premises from the

street, road or sidewalk at all times, and no booth, screen, partition, or other obstruction, nor any arrangement of lights or lighting shall be permitted in or about the interior of such licensed premises which shall prevent a full view of the entire interior of the premises from the street, road or sidewalk, and said premises must be so located that there shall be a full view of the entire interior of such premises from the street, road, or sidewalk.

21-3-20 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(235 ILCS 5/4-1)**

21-3-21 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, mentally deficient or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(235 ILCS 5/6-16)**

21-3-22 PERSONS SELLING LIQUOR. It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any licensed retail premises except in a Class "C" or "D" licensed business, a person may serve if he is **eighteen (18) years** of age or older. **(235 ILCS 5/4-1)**

21-3-23 UNDERAGED; ENTRY ON LICENSED PREMISES.

(A) 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 license unless accompanied by a parent or legal guardian. No holder of a license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this section, any holder of a 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.

(B) **Exception.** No prohibition of entry under this Section shall apply to any licensed premises, such as without limitation a restaurant, food shop, or convenience-type store including gas station which sell convenience wares, where selling, giving, or delivering alcoholic liquor is not the principal business of the licensee at those premises. **(235 ILCS 5/6-16.2)**

21-3-24 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(235 ILCS 5/6-20)**

21-3-25 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(235 ILCS 5/6-20)**

21-3-26 TRANSFER OF IDENTIFICATION CARD. No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(235 ILCS 5/6-20)**

21-3-27 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 \$1000 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR.”

21-3-28 EXCLUSIONARY PROVISION. The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(235 ILCS 5/6-20)**

21-3-29 INSPECTIONS. It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(235 ILCS 5/4-4)**

21-3-30 BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS. It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(235 ILCS 5/6-10)**

21-3-31 RESTRICTIONS ON LICENSEE. In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-32 **SELLING FALSE IDENTIFICATION.** Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-33 **FALSE IDENTIFICATION.** Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-34 **ACCESS TO DWELLING QUARTERS.** Except in the case of bed and breakfast facilities and hotels, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used or kept accessible for use by the public.

21-3-35 **UNDERAGED DRINKING ON STREETS.** Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(235 ILCS 5/6-16)**

21-3-36 **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 **twenty-one (21) years** of age and the following factors also apply:

(A) the person occupying the residence knows that any such person under the age of **twenty-one (21)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **twenty-one (21)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **twenty-one (21)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(235 ILCS 5/6-16)**

21-3-37 **RENTING HOTEL ROOMS FOR DRINKING.** Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-38 **BASSET TRAINING REQUIRED.**

(A) For all licenses issued on or after **October 1, 2016** and all original or renewal applications for Classes "A" to "G" liquor licenses shall be accompanied with proof of completion of a State Certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purpose of alcoholic beverages, pursuant to that license.

(B) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by **235 ILCS 5/3-12(11.1)** and **6-27** and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional), to participants as proof of completion.

(C) After **October 1, 2016**, any new owner, manager, employee, or agent requiring BASSET training, shall within **ninety (90) days** from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.

(D) A photo copy of certificate of completion for all owners, managers, employees, or agents required by this Section to have BASSET training shall be maintained, by the establishment, in manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities.

(E) The City will honor all State of Illinois Liquor Control Commission (ILCC) BASSET approved programs.

21-3-39 **DISPLAY OF BIRTH DEFECTS WARNING SIGN.**

(A) Every holder of a retail license, whether the licensee sells or offers for sale alcoholic liquors for use or consumption on or off the licensed premises, shall cause a sign with the message:

GOVERNMENT WARNING

ACCORDING TO THE SURGEON GENERAL, WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY BECAUSE OF THE RISK OF BIRTH DEFECTS.

to be framed and hung in plain view. The sign shall be no larger than **8½ x 11 inches**.

(B) In the event there is no warning sign posted on the licensed premise, it shall be the responsibility of the Illinois Liquor Commission to provide the warning sign. The licensee shall have **thirty (30) days** from the receipt of the warning sign to post it on the premises. For a second or subsequent violation, the licensee shall be subject to a fine of not more than **One Hundred Dollars (\$100.00)**.

21-3-40 **HERRINFESTA – LIQUOR.** The following activities are prohibited during HerrinFesta Italiana, beginning the Monday preceding Memorial Day and continuing through Memorial Day and the end of HerrinFesta Italiana:

(A) The possession and/or consumption of alcoholic liquor is prohibited other than in the designated piazza area or the bocce court area, which shall be clearly marked.

(B) Coolers and glass containers of any type shall not be brought into the area designated for HerrinFesta, including the Bocce Courts area.

(C) It shall be unlawful for any person under the age of **twenty-one (21)** to possess and/or consume alcoholic liquor.

(Ord. No. 17-2004; 05-10-04)

21-3-41 **CONDUCT IN LICENSED PREMISES.**

(A) A licensee shall not engage in, permit or suffer any person on the licensed premises to:

(1) Expose his or her genitals, pubic hair, buttocks, perineum region, anal region, natal cleft or pubic hair region; or

(2) Expose any device, costume, or covering which give the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or

(3) Expose any portion of the female breast below the areola thereof; or

(4) Engage in a male or female strip show, lingerie (either male or female) fashion show, which includes any of the activity provided in subsections (1), (2) or (3) hereinabove.

(B) The licensee shall not engage in, permit, or suffer any of the following acts to be conducted on the licensed premises:

(1) Performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or other sexual act.

(2) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, or genitals.

(3) The actual or simulated display of the breasts, buttocks, pubic hair, anus, vulva, or genitals.

(4) Permitting any person to remain upon licensed premises who exposes to public view any portion of his or her buttocks or anus, or the female breasts.

(C) The presence and/or use of pyrotechnics in a licensed establishment is hereby prohibited. **(Ord. No. 09-2003; 03-10-03)**

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(235 ILCS 5/10-2)**

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(235 ILCS 5/10-3)**

21-4-3 REVOCAION OF LICENSE AFTER CONVICTION. Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(235 ILCS 5/10-4)**

21-4-4 REVOCAION OF LICENSE WHEN EMPLOYEE CONVICTED. Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(235 ILCS 5/10-5)**

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(235 ILCS 5/10-6)**

21-4-6 ABATEMENT OF PLACE USED IN VIOLATION. Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(235 ILCS 5/10-7)**

21-4-7 USE OF PREMISES FOR ONE YEAR AFTER REVOCATION. When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(235 ILCS 5/7-13)**

21-4-8 **REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(235 ILCS 5/4-4)**

21-4-9 **COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(235 ILCS 5/7-7)**

21-4-10 **REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING.** The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A) **Fine as Opposed to Suspension or Revocation.** In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars (\$1,500.00) for a second violation within a twelve (12) month period, and Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (See P.A. 89-0063)

(B) **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Liquor

Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commissioner shall be predicted upon competent evidence. **(235 ILCS 5/7-5)**

21-4-11 APPEALS FROM ORDER OF LIQUOR COMMISSIONER. Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(235 ILCS 5/7-9)**

21-4-12 SUBSEQUENT VIOLATIONS IN A YEAR. In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(235 ILCS 5/7-9)**

21-4-13 APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION. Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(235 ILCS 5/7-9)**

(In Part, Ord. No. 50-99; 10-11-99)

APPLICATION FOR CITY LIQUOR RETAILER'S LICENSE

TO: Mayor
City of Herrin
300 N Park Ave
Herrin, IL 62948

The undersigned hereby make(s) application for the issuance of a city retailer's license for the sale of alcoholic liquor for the term beginning _____, 20____, and ending _____, 20____, and hereby certify(ies) to the following facts:

- 1) Applicant's full name _____
(If a partnership or corporation give names of all owners of more than 5%)
Name under which business is to be conducted:

- 2) Location of place of business for which license is sought _____
A) _____
Exact address by street and number/zip code
B) _____
(Full description of location, place or premises, specifying floor, room, etc.)
- 3) State principal kind of business _____
- 4) Class of license applied for _____
- 5) Does applicant seek a license to sell alcoholic liquor upon the premises as a restaurant? _____
If so, are premises:
A) Maintained and held out to the public as a place where meals are actually and regularly served? _____
B) Provided with adequate and sanitary kitchen and dining room equipment and capacity with sufficient employees to prepare, cook and serve suitable food? _____
- 6) Does applicant own premises for which this license is sought? _____
- 7) Has applicant a lease on such premises covering the full period for which the license is sought? _____ If so, attach copy.
- 8) Is applicant licensed as a food dispenser? _____
- 9) Is the location of applicant's business for which license is sought within 100 feet property line to property line, of any school, hospital, home for aged or indigent persons, or for veterans, their wives or children, or any military or naval station, or 100 feet building to building from a church? _____
- 10) Is any law enforcing public official, mayor, alderman, member of the city council or commission, or any president or member of a county board directly interested in the business for which this license is sought? _____
- 11) Has any manufacturer, importing distributor or distributor directly or indirectly paid or agreed to pay for this license, advanced money or anything of value, or any credit (other than merchandising credit in the ordinary course of business for a period not to exceed 30 days), or is such person directly or indirectly interested in the ownership, conduct or operation of the place of business? _____

- 12) Is the applicant or any affiliate, associate, subsidiary, officer, director or other agent engaged in the manufacture of alcoholic liquors? _____

 If so, at what location or locations? _____
- 13) Is the applicant engaged in the business of an importing distributor or distributor of alcoholic liquors? _____
 If so, at what location or locations? _____
- 14) Will the business be conducted by a manager or agent? _____
 If so, give name and residence address of such manager or agent:
 Name _____
 Address _____
- 15) Do you hold any other current business licenses issued by the City? _____ If so, what type of license do you currently hold and what is the address of the licensed premises?
 (Type) _____
 (Address) _____

Individual Applicant:

- 16) A) Name _____
 Date of birth _____

 Month/Day/Year
- B) Residence address _____

 (give street and number)
 Telephone number _____
- C) Place of birth _____
- D) Are you a citizen of the United States? _____
 If a naturalized citizen, when naturalized? _____

 Month/Day/Year
 Where naturalized? _____

 (City and State)
 Court in which (or law under which) naturalized _____

- E) Have you ever been convicted of any felony under any Federal or State law?

 If so, give date and state offense _____
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? _____
 If so, give dates and state offense _____
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? _____
 If so, give dates and state offense _____
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? _____
- I) Have you made application for other similar license for premises other than described in this application? _____
 If so, give date, location of premises and disposition of application _____

- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? _____
If so, state reasons therefor and date(s) _____

Co-partnership/Corporate Applicant:

- 17) A) Name of partner, or corporate officers and directors and shareholders, if any: (attached separate sheet if necessary)
Date of birth _____
Month/Day/Year
- B) Residence address _____
(City and State)
Telephone number _____
- C) Place of birth _____
Month/Day/Year
- D) Are you a citizen of the United States? _____
If a naturalized citizen, when naturalized? _____
Month/Day/Year
Where naturalized? _____
(City and State)
Court in which (or law under which) naturalized _____
- E) Have you ever been convicted of any felony under any Federal or State law? _____
If so, give date and state offense _____
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? _____
If so, give dates and state offense _____
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? _____
If so, give dates and state offense _____
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? _____
- I) Have you made application for other similar license for premises other than described in this application? _____
If so, give date, location of premises and disposition of application _____
- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? _____
If so, state reasons therefor and date(s) _____

APPENDIX IV

AFFIDAVIT

STATE OF ILLINOIS)
)
COUNTY OF WILLIAMSON) **SS**

I (or we) swear (or affirm) that I (or we) will not violate any of the ordinances of the City of Herrin or the laws of the State of Illinois or the laws of the United States of America, in the conduct of the place of business described herein and that the statements contained in this application are true and correct to the best of my (our) knowledge and belief.

Subscribed and Sworn to before me this _____ day of _____, 20____.

(Signature of Applicant)

CHAPTER 22 - MANDATED POLICIES

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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 day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the City may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the City agree to extend the period for compliance, a failure by the City to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at City Hall. If the person making the request asks the City to mail the documents, he or she shall provide the City with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the City shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the City shall furnish it in the format in which it is maintained by the City, or in paper format at the option of the person making the request.

22-3-5 REQUEST FOR COMMERCIAL PURPOSES. The City shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the City to provide the records requested and an estimate of the fees to be charged, which the City may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the City shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the City Code.

22-3-6 FEES. The City Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

22-3-7 PUBLIC FILE. The City Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

22-3-8 GRANTING OR DENIAL OF REQUESTS. A request for all records within a category shall be granted unless the request constitutes an undue burden upon the City. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the City and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the City. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

22-3-9 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING. If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

22-3-10 NOTICE OF DENIAL OF REQUEST; APPEALS.
(A) If the City denies the request, the City shall notify the person making the request in writing of:

- (1) the decision to deny the request;
- (2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
- (3) the names and titles or positions of each person responsible for the denial;
- (4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
- (5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the City asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

- (1) a copy of the request for access to records;
- (2) the proposed response from the City;
- (3) a detailed summary of the City's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the City to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

ARTICLE IV - FAIR HOUSING CODE

22-4-1 **DECLARATION OF POLICY.**

(A) In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the City may be ensured, it is hereby declared the policy of the City to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B) It is the policy of the City that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the City, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C) Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

22-4-2 **DEFINITIONS.** Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A) **"Decent, Sanitary, Healthful Standard Living Quarters".** "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

(B) **"Discriminate".** The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(C) **"Financial Institution".** The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(D) **"Housing Accommodation".** The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(E) **"Owner".** An "owner" means any person/persons who hold legal or equitable title to, or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(F) **"Real Estate Broker".** The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(G) **"Real Property".** The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the City.

22-4-3 **PROHIBITED ACTS.** It shall be an unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the City:

(A) To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the City or in furnishing of any facilities or services in connection therewith.

(B) To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C) To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D) To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E) To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F) To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

(G) For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H) For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

22-4-4 **PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. 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.

(Ord. No. 38-90; 04-14-90)

(65 ILCS 5/11-11.1-1)

ARTICLE V – INVESTMENT POLICY

22-5-1 **INVESTMENT POLICY.** It is the policy of the City to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

22-5-2 **SCOPE.** This policy includes all public funds of the City.

22-5-3 **PRUDENCE.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

22-5-4 **OBJECTIVE.** The primary objective, in order of priority, shall be:

- (A) **Legality.** Conformance with federal, state and other legal requirements.
- (B) **Safety.** Preservation of capital and protection of investment principal.
- (C) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.
- (D) **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the City’s needs for safety, liquidity, rate of return, diversification and its general performance.

22-5-5 **DELEGATION OF AUTHORITY.** Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

22-5-6 **ETHICS AND CONFLICTS OF INTEREST.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

22-5-7 **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.** The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

22-5-8 **AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

22-5-9 **COLLATERALIZATION.** Collateralization may be required, at the discretion of the City, on all funds held in banks or savings and loans above the insured limits provided by the FDIC or FSLIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be a minimum of **one hundred two percent (102%)** of market value of principal and accrued interest.

22-5-10 **SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

22-5-11 **DIVERSIFICATION.** The City shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

22-5-12 **MAXIMUM MATURITIES.** To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than **two (2) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

22-5-13 **INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (A) Control of collusion.
- (B) Separation of transaction authority from accounting.
- (C) Custodial safekeeping.
- (D) Written confirmation of telephone transactions for investments and wire transfers.

22-5-14 **PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Public Treasurer's Investment Pool (IPTIP).

22-5-15 **REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the City Council and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the City Council. A statement of the market value of the portfolio shall be issued to the City Council quarterly.

22-5-16 **INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

ARTICLE VI – ETHICS CODE

22-6-1 **DEFINITIONS.** For purposes of this Article, the following definitions shall apply:

"Campaign for Elective Office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state or local public office in a political organization, or the selection, nomination or election of presidential or vice-presidential electors, but does not include activities relating to the support or opposition of any executive, legislative, or administrative action relating to collective bargaining, or that are otherwise related to the person's official duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination, or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in Section 1-3 of the Election Code.

"Compensated Time" means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Article, does not include any designated holidays, vacation periods, personal time, compensatory time, or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer or employee is executing his or her official duties, regardless of location.

"Compensatory Time Off" means authorized time earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

"Contribution" has the same meaning as that term is defined in Section 9-1.4 of the Election Code.

"Employee" means a person employed by the City of Herrin, Illinois, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

"Employer" means the City of Herrin, Illinois.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food, drink, or honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

"Leave of Absence" means any period during which an employee does not receive compensation for employment, service credit toward pension benefits, and health insurance benefits paid for by the employer.

"Officer" means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

"Political Activity" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities relating to the support or opposition of any executive, legislative or administrative action relating to collective bargaining, or that are otherwise in furtherance of the person's official duties.

"Political Organization" means a party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited Political Activity" means:

(A) Preparing for, organizing, or participating in any political meeting, political rally, political demonstrations, or other political event.

(B) Soliciting contributions, including but not limited to the purchase of selling, distribution or receiving payment for tickets for any political fundraiser, political meeting or other political activity.

(C) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

(D) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office, or on behalf of a political organization for political purposes or for or against any referendum question.

(E) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum.

(F) Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(G) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(H) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(I) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(J) Preparing or reviewing responses to candidate questionnaires.

(K) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(L) Campaigning for any elective office for or against any referendum question.

(M) Managing or working on a campaign for elective office for or against referendum question.

(N) Serving as a delegate, alternate, or proxy to a political party convention.

(O) Participating in any recount or challenge to the outcome of any election.

"Prohibited Source" means any person or entity who:

(A) Is seeking official action by an officer or by an employee, or by the officer or another employee directing that employee;

(B) Does business or seeks to do business with the officer or with an employee, or with the officer or another employee directing that employee;

(C) Conducts activities regulated by the officer or by an employee, or by the officer or another employee directing that employee; or

(D) Has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

22-6-2 PROHIBITED POLITICAL ACTIVITIES.

(A) No officer or employee shall intentionally perform any prohibited political activity during any compensated time as defined herein. No officer or employee shall intentionally use any property or resources of the City in connection with any prohibited political activity.

(B) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity as part of that officer or employee's duties, as a condition of employment, or during any compensated time off.

(C) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any other officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(D) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Article.

22-6-3 GIFT BAN. Except as permitted by this Section, no officer or employee, and no spouse of or immediate family member living with any officer or employee, shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

This Section shall not apply to the following:

- (A) Opportunities, benefits, and services that are available on the same conditions as for the general public.
 - (B) Anything for which the officer or employee, or his or her spouse or immediate family, pays the fair market value.
 - (C) Any contribution that is lawfully made under the Election Code, or activities associated with a fundraising event in support of a political organization or candidate.
 - (D) Educational materials and missions.
 - (E) Travel expenses for a meeting to discuss business.
 - (F) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse, and the individual's fiancé.
 - (G) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered such as (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
 - (H) Food or refreshments not exceeding **Seventy-Five Dollars (\$75.00)** per person in value on a single calendar day, provided that the food or refreshments are consumed on the premises from which they were purchased or prepared, or catered. For purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
 - (I) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
 - (J) **Intra-governmental and Inter-governmental Gifts.** For the purpose of this Act "intra-governmental gift" means any gift given to an officer or employee from another officer or employee. "Inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.
 - (K) Bequests, inheritances, and other transfers at death.
 - (L) Any item or items from any one prohibited source any calendar year having a total cumulative value of less than **One Hundred Dollars (\$100.00)**.
- Each of the exceptions listed in this Section is mutually exclusive and independent of every other exception.

22-6-4 DISPOSITION OF GIFTS. An officer or employee, his or her spouse, or an immediate family member living with the officer or employee, does not violate this Article if the recipient promptly takes reasonable action to return the gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended.

22-6-5 ETHICS COMMISSION.

(A) Upon receipt of a signed, notarized, written complaint, to investigate, conduct hearings and deliberations, the Mayor, with the advice and consent of the City Council, shall appoint an Ethics Commission of **three (3) persons**, who shall be persons of good character in the County.

(B) The Commission shall receive information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated the provisions of this Article. It shall be the obligation of all officers and employees of the City to cooperate with the Commission during the course of its investigations. Failure or refusal to cooperate with requests of the Commission shall constitute grounds for discipline or discharge.

(C) Within **five (5) business days** of receipt of the complaint, the Commission shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her, and a copy of the complaint. The Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within **five (5) business days** after receipt by the Commission. The notices to the respondent and the complainant shall also advise them of the date, time and place of the meeting to determine the sufficiency of the complaint, and to establish whether probable cause exists to proceed.

(D) Upon not less than **forty-eight (48) hours** public notice, the Commission shall meet to review the sufficiency of the complaint and if the complaint is deemed sufficient to allege a violation of this Article, to determine whether there is probable cause, based on the evidence presented by the complainant to proceed. The meeting may be closed to the public to the extent authorized by the Open Meetings Act. The Commission shall issue notice to the complainant and the respondent of the Commission's ruling on the sufficiency of the complaint and if necessary, on probable cause to proceed within **seven (7) business days** after the review.

(E) If the complaint is deemed sufficient to allege a violation of **Section 22-6-2** or **Section 22-6-3**, and there is a determination of probable cause, then the Commission's notice to the parties shall include a hearing date scheduled within **four (4) weeks** of receipt of the complaint. Alternatively, the Commission may elect to notify in writing the attorney designated by the corporate authorities to prosecute such actions and request that the complaint be adjudicated judicially. If the complaint is deemed not sufficient to allege a violation, or if there is no determination of probable cause, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint, and that notice shall be made public.

(F) In the event the complaint is deemed sufficient to allege a violation of this Article, the Commission shall notify, in writing, the attorney designated by the corporate authorities to prosecute such actions and shall transmit to the attorney the complaint and all additional documents in the custody of the Commission concerning the alleged violation.

(G) On the scheduled date and upon at least **forty-eight (48) hours** notice of the meeting, the Commission shall conduct a hearing on the complaint and shall allow both parties the opportunity to present testimony and evidence. The hearing may be closed to the public only if authorized by the Open Meetings Act.

(H) Within **thirty (30) days** after the date of the hearing, the Commission shall either dismiss the complaint, or issue a recommendation for discipline to the respondent and to the Mayor, or impose a fine, or both. The particular findings in the case, including any recommendation for discipline shall be public information.

(I) If the hearing was closed to the public, the respondent may file a written demand for a public hearing on the complaint within **seven (7) business days** after the issuance of the recommendation for discipline or the imposition of a fine. The filing of the demand shall stay the enforcement of the recommendation of the Commission. Within **fourteen (14) days** after receiving the demand, the Commission shall conduct a public hearing on the complaint after providing **forty-eight (48) hours** notice to the public. Within **seven (7) days** after conclusion of the hearing, the Commission shall publicly issue a final recommendation to the respondent and to the Mayor, or impose a fine, or both.

(J) If a complaint is filed during the **sixty (60) day** period preceding the date of any election at which the respondent is a candidate, the Commission shall render its decision as required under **Section 22-6-5(H)** within **seven (7) days** after the complaint is filed, and before the date of the election, if possible.

(K) The Commission is authorized to fine any person who intentionally violates any provision of this Article in an amount not less than **One Thousand Dollars (\$1,000.00)**, and not more than **Five Thousand Dollars (\$5,000.00)**. The Commission may fine any person who knowingly files a frivolous complaint alleging a violation of this Article in an amount not less than **One Thousand Dollars (\$1,000.00)** and not more than **Five Thousand Dollars (\$5,000.00)**. The Commission may recommend any appropriate discipline, up to and including discharge.

(L) A complaint alleging the violation of this Article must be filed within **one (1) year** after the occurrence of the alleged violation.

(Ord. No. 14-2004; 04-26-04)

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. 30-2018; 11-13-18)

ARTICLE IX - DRUG FREE WORKPLACE

22-9-1 DEFINITIONS.

- (A) **"Drug Free Workplace"** means any place for the performance of work for or on behalf of the City, done by an employee of the City, or an employee of a contractor or subcontractor performing work for the City.
- (B) **"Employee"** as used within the meaning of this Article, means an employee of the City as well as an employee of a contractor or subcontractor performing work for the City.
- (C) **"Controlled Substance"** means a controlled substance as defined in the Illinois Controlled Substance Act, **720 ILCS 570/100 et seq.** (1992 State Bar Edition) or Cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.** (1992 State Bar Edition).
- (D) **"Conviction"** means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.
- (E) **"Criminal Drug Statute"** means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.
- (F) **"State"** means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths, of the State government which are created by or pursuant to statute.

22-9-2 REQUIREMENTS FOR CITY. The City shall provide a drug free workplace by:

- (A) **Publishing a Statement.**
 - (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace.
 - (2) Specifying the actions that will be taken against employees for violations of such prohibition.
 - (3) Notifying employee that, as a condition of employment, the employee will:
 - (a) abide by the terms of the statement; and
 - (b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.
- (B) Establishing a drug free awareness program to be administered by a person appointed by the Mayor to inform employees about:
 - (1) the dangers of drug abuse in the workplace;
 - (2) the City's policy of maintaining a drug free workplace;
 - (3) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) the penalties that may be imposed upon employees for drug violations.
- (C) A copy of the statement required by Subsection (A) above shall be given to each employee and posted in a prominent place in the workplace.
- (D) If the City receives a grant from the State or Contract for the procurement of any property or services from the State, then the City shall notify the contracting or granting agency within **ten (10) days** after receiving notice under part (b) of paragraph (3) of Subsection (A) from an employee or otherwise receiving actual notice of such conviction.
- (E) Within **thirty (30) days** from receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace, the Mayor shall take action against such employee as may be appropriate as determined by the Mayor and which may include but is not limited to reprimand; suspension for any length of time with or without pay; termination from employment; and/or a requirement to satisfactorily participate in a drug abuse assistance or rehabilitation

program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(F) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(G) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

ARTICLE X – DRUG/ALCOHOL TESTING POLICY AND PROCEDURE

22-10-1 DRUG AND ALCOHOL FREE WORKPLACE POLICY. The City is committed to maintaining a drug free workplace pursuant to the federal and state Drug Free Workplace Acts, 41 U.S.C.A. § 701 *et seq.*, **30 ILCS 580/1 et seq.** It is the policy of the City that the public has the reasonable right to expect persons employed by the City to be free from the effects of alcohol and drugs. The City, as the employer, has the right to expect its employees to report for work fit and able for duty. This policy is intended to ensure that City employees are not impaired in their ability to perform assigned duties in a safe, healthy and productive manner and to protect any such employee and the public from the risks associated with the adverse effects of drugs and alcohol. Accordingly, the unlawful manufacture, distribution, possession, or use of a controlled substance, including cannabis and alcohol, is prohibited in the workplace or while acting on behalf of the City. Employees are required to sign a release and consent/authorization form, a copy of which is included with this policy, at the time the policy is distributed to the employee.

22-10-2 DEFINITIONS. For purposes of this policy, the following definitions apply:

(A) **"Abuse of alcohol" or "being under the influence of alcohol"** means the consumption of any beverage, mixture or preparation, including any medication containing alcohol, which results in an employee being intoxicated. Intoxicated or a positive test for alcohol shall mean a test result which shows an alcohol concentration of .02 or more for all persons covered by Federal DOT regulations and .08 or more for all persons not covered by Federal DOT regulations.

(B) **"Abuse of any drug"** means the use of any illegal drug, the use of any prescription drug which has not been legally prescribed and dispensed, or the misuse of any legally prescribed drug.

(C) **"Drug"** means any controlled substances listed in the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, or the Illinois Controlled Substances Act, **720 ILCS 570/100 et seq.**, and cannabis as defined in the state Cannabis Controlled Act, **720 ILCS 550 et seq.**

22-10-3 PROHIBITED ACTIONS. Employees shall be prohibited from:

(A) Manufacture, distribution, dispensation, possession, use, sale, purchase, abuse of alcohol or being under the influence of alcohol at any time during the course of the employee's workday or anywhere on or in any City-owned property, including City buildings and City-owned vehicles.

(B) Manufacture, distribution, dispensation, possession, use, sale, purchase, being under the influence of or abuse of any drug at any time and at any place.

(C) Failure to immediately disclose to his or her Department Head or immediate supervisor any drug or other medication-related work restrictions, or failure to disclose the taking of any drug or medication whose container has warnings that such drug or medication may affect any such employee's ability to perform his or her job, or to drive or operate machinery.

(D) Testing positive for any drug or for the abuse of alcohol or being under the influence of any drug and/or alcohol during working hours.

(E) Failure to comply with this policy.

(F) Refusal to submit to any drug or alcohol test under this policy, which shall also include, but not be limited to, any attempt to tamper with or substitute any sample to be used in connection with any such test.

22-10-4 APPLICABILITY. This Drug/Alcohol Testing Policy and Procedure is not intended to replace the Drug Free Workplace Programs but to define and clarify, who will be tested, when the employees will be tested and where employees will be tested. The following four employee categories define under which category each full time, part time/temporary and volunteer employee will be tested:

(A) Any employee who drives a City vehicle, tractor, tractor mower or similar motor powered equipment that moves under its own power will be tested under the Federal DOT testing standards.

(B) Testing for employees of the Police Department shall be controlled by the provisions set forth in their union contract.

(C) All other City employees who are not included within the two categories listed above in (A) or (B) will be subject to testing to comply with the requirements necessary to establish a Drug Free Workplace within the City.

(E) Part time/temporary employees and volunteer employees of the City will remain exempt from pre-employment and random testing as defined in this testing program, but they can be included for testing if reasonable suspicion should arise, or an accident should occur during the tenure of their part time/temporary or volunteer employment. After reasonable suspicion of abuse of drugs or alcohol has been established or an accident should occur, the decision to request a drug and alcohol test for the employee must be deemed necessary and reasonable by the Mayor and/or the supervisor of the employee.

22-10-5 TESTING PROCEDURE. In conducting any drug testing under this policy, the City shall:

(A) Use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory and Blood Bank Act, **210 ILCS 25/101 et seq.**, that has been or is capable of being accredited by the National Institute of Drug Abuse ("NIDA").

(B) Insure that the laboratory or facility selected conforms to all NIDA standards.

(C) Follow all Federal DOT guidelines for the collection, testing and reporting procedures.

(D) In conducting any alcohol testing under this policy, the City shall use a facility that:

(1) Ensures that all technicians are trained and equipment is calibrated.

(2) Conducts breath test to detect the presence of alcohol or blood tests if circumstances require.

(E) The fees for drug/alcohol testing shall be paid as follows:

(1) Pre-employment testing will be paid by the City.

(2) Post accident tests shall be paid by the City.

(3) Reasonable suspicion testing will be paid by the City.

(4) Random testing will be paid by the City.

(5) Retesting at the request of the employee after a positive drug or alcohol test shall be at the employee's sole expense.

(6) Drug/Alcohol test for renewal of CDL Driver's License shall be paid by the City.

22-10-6 SCREENING AND TESTING.

(A) **Pre-Employment Testing.**

(1) All employee applicants shall be advised of the City Drug/Alcohol testing requirements at the time of interview. After having successfully completed the interview process, the selected prospective full time employee shall then be required to successfully complete the City's drug screening test, as part of his/her background investigation.

(2) All applicants for full time employment shall sign a release and consent/authorization form for Drug/Alcohol testing.

(3) An applicant will not be employed or considered for employment if:
the test results confirm POSITIVE;
he/she refuses to complete the test;
he/she tampers with, or adulterates the specimen;

he/she fails to cooperate in the testing process (including executing all required documentation).

(B) **Testing Based on Reasonable Suspicion.** If there is a reasonable suspicion that any City employee, paid or volunteer, has violated any of the prohibited actions covered by this policy, such employee may be required to undergo drug and/or alcohol testing. Reasonable suspicion exists if the facts and circumstances warrant a rational inference that an employee has violated any of the acts prohibited by this policy. Reasonable suspicion shall be based upon the following:

- (1) Observable phenomena, such as direct observation of use or the verifiable physical symptoms resulting from the abuse of drugs or being under the influence of alcohol which may include by way of example but is not limited to a pattern of abnormal conduct or erratic behavior, a dramatic decline in work performance, excessive sick leave usage, difficulty in walking, slurred speech, needle marks, glazed stare, and possession of alcohol, or unauthorized banned substance or drug paraphernalia at work.
- (2) Information provided by an identifiable, reliable and credible third party that an employee has committed any of the acts prohibited by this policy.

In the event reasonable suspicion exists, the City shall arrange for a drug and/or alcohol test. When testing is ordered, the employee may be temporarily reassigned or relieved from duty and placed on leave with pay pending the receipt of the test results by the City. The City shall also provide the employee with written notice setting forth the objective facts and reasonable inferences to be drawn from those facts which form the basis of the reasonable suspicion.

The employee will then be escorted to the testing facility or collection facility by a designated supervisor immediately.

After completing the test, the employee will be escorted to his/her residence or at the option of his/her supervisor to another location to await the test results, and the employee shall be off work with pay pending the results of the tests. Under no circumstances shall the employee be allowed to leave the work site or the test site driving his/her own vehicle or a City vehicle.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(C) **Random Testing.** Random drug testing shall be conducted during working hours. Employees will be selected at random for a drug test by a random drawing/lottery. The testing times and dates are unannounced and are with unpredictable frequency throughout the year.

When testing is ordered, the employee will be directed to the testing facility or collection facility within a reasonable period of time.

After completing the test, the employee will return to work pending the results of the test.

Employees who test positive for drugs will be subject to disciplinary action, up to and including termination.

(D) **Post Accident Testing.** Post accident drug/alcohol testing is required immediately following any accident involving a City employee, paid or volunteer, who operates City equipment or operates a City vehicle where an injury to a person has occurred or where damage to equipment, or property has occurred and that damage exceeds **One Hundred Dollars (\$100.00)**, based on actual cost or reliable estimates of damage.

When testing is ordered, the employee will be escorted to the testing facility or collection facility by a designated supervisor within a reasonable period of time following the accident.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(E) **Testing Required for Position Required to Have a CDL.** In addition to the provisions of this policy, any employee who is appointed to a position required to have a commercial driver's license ("CDL") shall be subject to drug and/or alcohol screening following any work related accident. Mandatory drug screening shall also be required of all applicants chosen to be hired for positions requiring a CDL. Those who fail the pre-employment drug screening shall not be hired for those positions.

(F) **Return to Work.** Any employee who returns to work after an extended leave of absence shall be required to have drug testing and be evaluated at a medical facility of the City's choosing. **(Ord. No. 3-2020; 02-10-20)**

22-10-7 **CONFIDENTIALITY OF TEST RESULTS.** Any employee subject to a drug and/or alcohol test under this policy will be provided a copy of all information and reports received by the City in connection with any drug and/or alcohol test and any results thereof under this policy. Any results of drug and alcohol test will be disclosed to any employee tested, the applicable supervisor, City Attorney and those permitted by law.

22-10-8 **CONSEQUENCES OF POSITIVE TEST RESULT OR REFUSAL TO COOPERATE.** Any employee who refuses to cooperate in testing or who fails a test or violates the Drug and Alcohol Policy shall be subject to disciplinary action, up to and including termination.

ARTICLE XI – STANDARDS OF ETHICAL CONDUCT TO ADDRESS FRAUD, WASTE AND ABUSE

22-11-1 POLICY. In the spirit of sound and ethical governance and other applicable laws and regulations, the City believes that the ethical conduct of those in public service is of utmost importance. This policy is set forth in order to address fraud, waste and abuse in City government and establishes reasonable standards of ethical conduct for all City employees and officers. It is the intent of this policy to establish minimum expectations relative to employee and officer behavior and conduct in the execution of their duties as representatives of the City.

22-11-2 SCOPE. This policy applies to all City employees and officers (hereinafter “employees”). This policy is not intended to be all-inclusive or address every possible eventuality or circumstance. Instead, it is intended to establish reasonable standards and provide guidance relative to the ethical conduct of City employees while fulfilling the expectations of City residents.

22-11-3 INTERPRETATION. This policy does not supplant any of the City’s labor contracts or Memoranda of Understanding (MOUs). Should this policy conflict with any law, regulation, or labor contract of which the City or its employees may be subject, that law, regulation, or contract shall take precedence. In the event this policy conflicts with any precedent or past practice of the City, management will resolve that conflict by means consistent with established procedures or practices.

22-11-4 DEFINITIONS.

(A) **Fraud, Waste and Abuse.** Any illegal, wasteful, or improper activity involving City assets or resources. It includes theft by means of deception, deceit or trickery; willful misrepresentation to obtain something of value; and the extravagant, careless or needless expenditure or consumption of City resources, whether intentional or not.

(B) **Fraud.** Theft by means of deception, deceit or trickery. Examples include, but are not limited to: forging or altering a City warrant or check; charging personal expenses to the City; or claiming overtime when not worked.

(C) **Waste.** The unnecessary or pointless consumption of resources, time or labor. Examples include, but are not limited to: using more of something when less will do; performing tasks that do not need to be performed; or maintaining excessive inventories.

(D) **Abuse.** Misuse of power, authority or control. Examples include, but are not limited to: using one’s authority to direct employees to perform non-City related work; causing employees to work overtime without compensation; or using City assets for non-City business without proper permission.

Additional definitions of terms to fraud, waste and abuse include:

(E) **Asset.** Anything of value, whether tangible or intangible. Examples include, but are not limited to: cash, tools, equipment, fuel, office supplies and time.

(F) **Conflict of Interest.** Any circumstance in which the interests, duties, obligations or activities of an employee or an employee’s immediate family member are in conflict or incompatible with the interests of the City, the duties and obligations of the employee; or his or her capacity as an employee. Examples include, but are not limited to: City employees bidding on City contracts; influencing City policy or activities for personal gain; or disclosing confidential City information to a friend or relative in order to assist them or benefit themselves.

(G) **Employee.** Any individual classified by the City as a full-time, part-time, seasonal, temporary full-time, temporary part-time, or per diem employee or officer of the City.

(H) **Gifts.** Any payment or item that gives a personal benefit to the recipient to the extent that something of equal or greater value is not received and includes a discount or rebate, unless the discount or rebate is available to all members of the public.

(I) **Immediate Family.** A spouse or dependent child of the employee.

- (J) **Reasonable Person.** Any person of average competence and ability to reason.
- (K) **Third Party.** Any person or entity other than an employee of the City or the City itself.

22-11-5 EXPECTATIONS. City employees shall adhere to and uphold this policy both in practice and in spirit. It is expected that employees act in the public’s interest first and not their own. It is further expected that their behavior, both on the job and off, reflects positively on the City, its reputation, and its employees. Pursuant to this policy, an employee’s duties and responsibilities include, but are not limited to:

(A) **Duty to Protect the Reputation of the City.** It is the duty of every employee to uphold and protect the good reputation of the City and his or her fellow workers.

(B) **Duty to Obey the Law.** It is the responsibility of every employee to obey the law in the execution of his or her duties. Ignorance of the law or a particular regulation may not be considered an excuse for committing a violation or oversight.

(C) **Duty to Comply with City Policies.** It is the responsibility of every employee to comply with all City policies.

(D) **Conflicts of Interest Must be Avoided.** In the broadest sense of the meaning, no employee shall engage in a behavior that may appear to be or give rise to a conflict of interest between him or herself and that employee’s official capacity or duties. Should a conflict of interest arise, the employee involved shall report it in the manner described below.

(E) **Disqualification from Acting on City Business.** An employee shall disqualify him or herself and shall not act on any matter in which he or she, a member of his or her immediate family, or another employer of the employee has a financial interest.

(F) **Prohibition of Certain Financial Interest or Activity.** No employee, regardless of any prior disclosure, who has a material interest, personally or through a member of his or her immediate family, in any business entity doing or seeking to do business within the City shall influence or attempt to influence the selection of the business entity or the making of a contract between such business entity and the City. Employees may not have financial interests in contracts.

(G) **Solicitation of Gifts or Loans is Prohibited.** No employee shall solicit anything of monetary value (even such things which might be returned or repaid) if it would appear to have been solicited with intent of obtaining something in return. Nothing shall prohibit contributions of gifts including political contributions, which are reported in accordance with applicable law or which are accepted on behalf of the City.

(H) **Gifts in Excess of the \$300 Annual Gift Limitation Amount are Prohibited.** No employee or family member of an employee shall accept gifts that exceed an aggregate value of the adjusted annual gift limitation amount in accordance with Government Code in any **twelve (12) consecutive months** from an individual or entity that is doing business with the City.

(I) **Improper Disclosure of Privileged, Personal or Confidential Information.** Unless expressly authorized, no employee shall intentionally disclose privileged, personal or confidential information obtained as a result of, or in connection with, his or her employment with the City for any purpose. Privileged, personal or confidential information does not include information that is a matter of public knowledge or that is available to the public on request. Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state and federal constitutions as well as labor or other applicable laws.

(J) **Improper Using One’s City Employment.** No employee shall use or permit the use of any City assets for a non-City purpose that is for the private benefit of the employee or any other person unless available on equal terms to the general public.

(K) **Improper Influence.** No employee, except in the course of his or her official duties, shall assist any person in any transaction with the City when such employee’s assistance would appear to a reasonable person to be enhanced by that employee’s position with the City for their own personal benefit. This subsection shall not apply to any employee appearing on his own behalf or representing himself as to any matter in which he has a proprietary interest, if not otherwise prohibited by law.

(L) **Duty to Identify, Report and Work to Eliminate Fraud, Waste and Abuse.** It is the responsibility and duty of every employee to identify, report and work to eliminate fraud, waste and abuse at all levels of the City administration and operations. Employees are encouraged to bring to the attention of management any opportunity to reduce or eliminate fraud, waste and abuse.

(M) **Duty to Cooperate.** It is the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy. Upon the City's request, an employee will participate and fully cooperate in any investigation. This policy does not preclude an employee from exercising his or her Constitutional rights or those afforded to him or her by a City recognized labor contract. However, the exercising of one's rights does not preclude City from disciplining an employee for his or her failure to participate or cooperate in an investigation if the City may lawfully do so.

(N) **Handling of Anonymous Complaints or Allegations of Violations of this Policy.** Employees are prohibited from attempting to identify or intentionally exposing the identity of any party making an anonymous report or complaint pursuant to this policy.

22-11-6 REPORTING. Employees are expected to report all violations or suspected violations of this policy to management in a timely and professional manner. The City recognizes that the reporting party may desire or require anonymity. Thus, anonymous reports or concerns may be reported by any party to the City Mayor or the City Council. It is the duty of every employee to report any known violation of this policy or what would appear to a reasonable person to be a violation of this policy. Employees are reminded that they may report anonymously any actions that detract from the efficiency and effectiveness of City operations include, but not limited to, fraud, waste, abuse, ethics violations, retaliation, discrimination and safety violations. It is a violation of this policy to retaliate against an employee who makes a report anonymously under Illinois Labor Code. The Illinois State Attorney General's Whistleblower Hotline number is (888) 814-4646.

22-11-7 INVESTIGATION AND ENFORCEMENT. All violations or alleged violations of this policy will be investigated. As stated above, it is the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy. Upon the request of the City, an employee will participate and fully cooperate in any investigation, whether conducted by the City or its agent(s). If as a result of good faith investigation and a resultant reasonable conclusion that a violation of this policy has occurred, the offending employee may be subject to disciplinary action up to and including termination.

22-11-8 ACKNOWLEDGEMENT. With the City's approval of this policy, anyone hired after this policy approval will be required to read and understand this policy as it will be an approved ordinance of the City. This form shall be retained in department files.

(Ord. No. 14-2018; 05-29-18)

ARTICLE XII – WHISTLEBLOWER PROTECTION POLICY

22-12-1 PURPOSE. The City provides whistleblower protections in two important areas: confidentiality and against retaliation. The confidentiality of a whistleblower will be maintained to the extent allowable by law, however, an identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense. A whistleblower may also waive confidentiality in writing. The City will not retaliate against a whistleblower. This includes, but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes they are being retaliated against must submit a written report to the Auditing Official within **sixty (60) days** of gaining knowledge of the retaliatory action. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

22-11-2 DEFINITIONS.
(A) Whistleblower means an employee, as defined in this Section, of the Municipality who:

- (1) Reports an improper governmental action as defined under **50 ILCS 105/4.1** (hereinafter Section 4.1);
- (2) cooperates with an investigation by an Auditing Official related to a report of improper governmental action; or,
- (3) testifies in a proceeding or prosecution arising out of an improper governmental action.

(B) Auditing Official means any elected, appointed or employed individual, by whatever name, in the Municipality whose duties may include receiving, registering, and investigating complaints and information concerning misconduct, inefficiency and waste within the Municipality; investigating the performance of officers, employees, functions and programs; and promoting economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the City.

- (1) The Auditing Official shall be the City Attorney, until replaced by the Municipality.
- (2) If the Municipality does not designate an Auditing Official, the Auditing official defaults to the State’s Attorney of Williamson County.

(C) Employee means anyone employed by the Municipality, whether in a permanent or temporary position, including full-time, part-time, and intermittent workers. Employee also includes members of appointed boards or commissions, whether paid or unpaid. Employee also includes persons who have been terminated because of any report or complaint submitted under Section 4.1.

(D) Improper governmental action means any action by an employee of the Municipality; an appointed member of a board, commission, or committee; or an elected official of the Municipality that is undertaken in violation of a federal or state law or local ordinance; is an abuse of authority; violates the public’s trust or expectation of their conduct; is of substantial and specific danger to the public’s health or safety; or is a gross waste of public funds. The action need not be within the scope of the employee’s, elected official’s, board member’s, commission member’s or committee member’s official duties to be subject to claim of “improper governmental action.”

- (1) Improper governmental action does not include the Municipality’s personnel actions, including, but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, reprimands, or violations of collective bargaining agreements, except to the extent that the action amounts to retaliation.

(E) Retaliate, retaliation or retaliatory action means any adverse change in an employee’s employment status or the terms and conditions of employment that results from an employee’s protected activity under Section 4.1. Retaliatory action includes, but is not limited to, denial

of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantial letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other disciplinary action made because of an employee's protected activity under Section 4.1.

22-12-3 DUTIES OF AN AUDITING OFFICIAL. Each Auditing Official shall establish written processes and procedures consistent with the terms of this policy and best practices for investigations for managing complaints filed under Section 4.1. Each Auditing Official shall investigate and dispose of reports of improper governmental action in accordance with these processes and procedures, and all other provisions of Section 4.1.

The Auditing Official must provide each employee a written summary or a complete copy of Section 4.1 upon commencement of employment and at least once each year of employment. At the same time, the employee shall also receive a copy of the written processes and procedures for reporting improper governmental actions from the applicable Auditing Official.

Auditing Officials may reinstate, reimburse for lost wages or expenses incurred, promote, or provide some other form of restitution.

In instances where an Auditing Official determines that restitution will not suffice, the Auditing Official may make their investigation findings available for the purposes of aiding in that employee's, or the employee's attorney's, effort to make the employee whole.

Auditing Officials are responsible for reading the full context of Section 4.1 and complying with all requirements.

If no Auditing Official is designated, the State's Attorney of Williamson County will be the Auditing Official.

22-12-4 DUTIES OF AN EMPLOYEE. All reports of illegal and dishonest activities will be promptly submitted to the Auditing Official who is responsible for investigating and coordinating corrective action.

If an employee has knowledge of, or a concern of, improper governmental action, the employee shall make a written report of the activity to the Auditing Official. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing will be subject to discipline up to and including termination.

The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; a designated Auditing Official is charged with these responsibilities.

22-12-5 DEFEND TRADE SECRETS ACT (18 U.S.C. § 1836) COMPLIANCE. Section 7(b): "Immunity from Liability for Confidential Disclosure of a Trade Secret to the Government or in a Court Filing:

(A) **Immunity.** An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (1) is made (a) in confidence to a federal, state or local government official, either directly or indirectly, or to an attorney; and, (b) solely for the purpose of reporting or investigating a suspected violation of law; or, (2) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

(B) **Use of Trade Secret Information in Anti-Retaliation Lawsuit.** An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (1) files any document containing the trade secret under seal; and (2) does not disclose the trade secret, except pursuant to court order."

22-12-6 EMPLOYEE ACKNOWLEDGEMENT. Employees are required to sign a written acknowledgement that they have received, read, and understand this Policy, and to submit that acknowledgement to the Auditing Official or other designated official of the City. The form that follows on **Addendum "A"** will satisfy this requirement upon receipt.

(Ord. No. 1-2022; 01-24-22)

ADDENDUM "A"

EMPLOYEE ACKNOWLEDGEMENT OF WHISTLEBLOWER PROTECTION POLICY

I confirm that I have received, read, and understand the "Whistleblower Protection Policy" for employees of the City of Herrin.

I understand that as an employee, it is my responsibility to abide by this Policy. If I have questions about this Policy, I understand it is my responsibility to seek clarification from the proper supervisory department, the Auditing Official or the State's Attorney of Williamson County.

Print Name: _____

Employee Signature: _____

Date: _____

Policy

As a Federal Grantee, I hereby notify employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in this workplace. As a condition of employment, employees must abide by this policy.

Drug-Free Awareness

Drug abuse in the workplace has major adverse effects on the welfare of all citizens of the United States, and it results in lost productivity each year. Employees who use illegal drugs have three to four times more accidents while at work.

Employees with drug abuse problems should seek help. Employees desiring more information on the dangers of drug abuse in the workplace and those employees needing drug counseling, rehabilitation, or other employee assistance should contact the local municipal drug administrator.

Employees will be referred to the appropriate resource for available counseling, rehabilitation or other assistance.

Notice of Potential Personnel Actions for Illegal Drug Use On-the-Job

Penalties may be imposed upon employees for drug abuse violations occurring in our workplaces:

1. Employees must notify this employer of any criminal drug statute conviction or a violation occurring in the workplace no later than five days after such conviction.
2. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer will take appropriate personnel action against such employee, up to and including termination; or
3. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer may require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

Employee Certification

- ✓ I understand the drug-free workplace policy.
- ✓ I agree, as a condition of my employment, to abide by the terms of this program.
- ✓ I agree to notify this employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

Employee Signature

Date

Employer Statement

- ✓ I have explained the policy, drug-free awareness, and potential personnel action statements and have provided the employee's part of this pamphlet to the employee.

Authorized Employer Signature

Date

City of Herrin, Herrin, Illinois
Name of Organization

CHAPTER 23 – MANUFACTURED HOUSING CODE

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CHAPTER 23

MANUFACTURED HOUSING CODE

ARTICLE I – GENERAL PROVISIONS

23-1-1 **DEFINITIONS.** The terms used in this Code shall have the following meanings:

"AFFIDAVIT" means an oath in writing, sworn before and attested by an individual who has authority to administer an oath.

"APPLICANT" means any person making application for a license or permit.

"CORPORATE AUTHORITIES" shall mean the Mayor and the City Council.

"IMMOBILIZED MANUFACTURED HOME": As applied to a manufactured home, "immobilize" means to remove the wheels, tongue and hitch and to affix to a permanent foundation. The term implies that, once affixed to a permanent foundation, the destruction of said foundation would be necessary in order to move the dwelling to another location.

"LICENSE" means a license certificate issued by the City allowing a person to operate and maintain a manufactured home park under the provisions of this Code and the rules and regulations issued hereunder.

"LICENSEE" means any person having a license or permit under this Chapter.

"MANUFACTURED HOME" means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**. Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the manufactured home. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a manufactured home shall not exceed a ratio of 3 to 1. As with all residences, a manufactured home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a **"manufactured home"**, but shall be an **"immobilized manufactured home"**. A manufactured home should not be confused with a **"camping trailer"** or **"recreational vehicle"**. **(See 210 ILCS Sec. 115/2.10)**

"MANUFACTURED HOME, DEPENDENT" means a manufactured home which does not have a toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.3)**

"MANUFACTURED HOME, DOUBLE-WIDE" consists of **two (2) mobile units** joined at the side into a single home, but kept on their separate chassis for repeated transportation to a site.

"MANUFACTURED HOME, INDEPENDENT" means a manufactured home which has self-contained toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.4)**

"MANUFACTURED HOME LOT" means a parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

"MANUFACTURED HOME PAD" means that part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

"MANUFACTURED HOME PARK" means a tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(See 210 ILCS Sec. 115/2.5)**

"MANUFACTURED HOME SALES AREA" means a parcel of land used for the display, sale, and repair of new or used manufactured homes.

"MANUFACTURED HOME SPACE" means a portion of a manufactured home park designed for the use or occupancy of **one (1) manufactured home**.

"MANUFACTURED HOUSING UNIT" includes all forms of housing units listed in this Section and as regulated in this Code.

"MOBILE HOME" means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term "mobile home" shall only include homes constructed prior to **June 30, 1976**, not in accordance with the Federal "National Manufactured Housing Construction and Safety Standards Act of 1974".

"MODULAR HOME": A modular home is a factory-fabricated single-family home built in **one (1)** or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed on a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

"OWNER" or "OPERATOR" means the licensee.

"PERMANENT FOUNDATION": A foundation which extends into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, poured wall or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. In addition, piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the structure, provided the support beams are affixed to the permanent perimeter foundation.

"PERMANENT HABITATION" means a period of **two (2) or more months**.

"PERMIT" means a certificate issued by the Building or Zoning Inspector, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

"PERSON" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof or any other entity.

"REVOCACTION" means to declare invalid a permit or license issued to the applicant or licensee by this City for an indefinite period of time.

"SITE" means the lot on which the manufactured home is located for permanent habitation. **(See 210 ILCS Sec. 115/2.7)**

"SPACE" shall be synonymous with **"Manufactured Home Space"**.

"SUSPENSION" means to declare invalid a permit or license issued to the applicant or licensee by this City for a temporary period of time with an expectation of resumption.

23-1-2 STATE REQUIREMENTS ADOPTED BY REFERENCE. The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

23-1-3 MANUFACTURED HOUSING ACT ADOPTED. The **Illinois Manufactured Housing and Manufactured Home Act, as passed and approved by the Illinois General Assembly** is hereby adopted by the City, the applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the City. **(See 430 ILCS Sec. 115/1 et seq.)**

23-1-4 ILLINOIS DEPARTMENT OF PUBLIC HEALTH ADOPTED AND REGULATIONS. The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the City. The applicable provisions as they pertain to the Manufactured Home community shall be controlling within the corporate limits.

23-1-5 NATIONAL SAFETY STANDARDS. No manufactured home or immobilized manufactured home shall be located in the City unless the unit has the **National Manufactured Housing Construction and Safety Standards** metal seal affixed thereto.

23-1-6 SKIRTING. Skirting shall be used to conceal all underpinning, plumbing, and support piers whether on a permanent foundation or otherwise. All skirting shall be installed on all manufactured housing units within **sixty (60) days** of the placement of the unit.

23-1-7 **FIRE EXTINGUISHERS.** All manufactured housing units located in the City shall be equipped with a fire extinguishing apparatus capable of extinguishing all types of fires. Such extinguishers shall be of sufficient size so that they will reasonably protect the manufactured housing units. All fire extinguishers shall be approved by the Fire Chief or his designated representative prior to installation of the manufactured home. **(See 425 ILCS Secs. 60/1-60/4)**

23-1-8 **INSPECTION.** All Manufactured Housing units located in the City shall be subject to reasonable inspection by an official or officials designated by the City Council.

23-1-9 **OFF-STREET PARKING.** Every owner of a manufactured housing unit shall provide for an off-street parking area of **four hundred (400) square feet.**

23-1-10 **PROHIBITED RESIDENTIAL USES.**
(A) **Dependent Manufactured Home.** It shall be unlawful to locate a dependent manufactured home in the City unless placed in a state-licensed travel trailer park.
(B) **Independent Travel Trailer.** It shall be unlawful to reside in an independent travel trailer in the Municipality unless it is located in a state-licensed travel trailer park.
(C) **Manufactured Home.** It shall be unlawful to locate a manufactured home or a manufactured home in a state-licensed travel trailer park without written permission of the City Council or the Zoning Board.

23-1-11 **CARBON MONOXIDE ALARM DETECTORS.** Each unit shall be equipped with a carbon monoxide alarm detector as prescribed by state statute. **(See 430 ILCS 135/1 et seq.)**

23-1-12 **SMOKE AND FIRE DETECTORS.** Each unit shall be equipped with smoke and fire detectors as prescribed by state statute.

ARTICLE II - IMMOBILIZED MANUFACTURED HOMES

23-2-1 **IMMOBILIZED MANUFACTURED HOMES.** All immobilized manufactured homes located in the City shall be classified as real estate; therefore, it is mandatory for all persons owning, operating, renting, or leasing an existing manufactured home outside a manufactured home park to remove or cause to have removed the wheels or any other transportation device from the manufactured home. The owner or lessor shall permanently fix it to the ground in a manner that conforms to the definition of an immobilized manufactured home in **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code.

23-2-2 **PERMIT - FEE.** All persons seeking to locate or replace a manufactured home or an immobilized manufactured home outside a manufactured home park shall obtain a **Building or Zoning Permit** from the City Clerk or Building Inspector. No utility services shall be connected to the unit until the City has issued the appropriate permits. The fee to locate or relocate a manufactured home or immobilized manufactured home shall be **Twenty-Five Dollars (\$25.00)**. **(See Zoning Code for districts permitting these uses.)**

23-2-3 **LOT SIZE.** The minimum lot size for the location of an immobilized manufactured home unit shall be **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, if any.

23-2-4 **CONCRETE PADS.** All immobilized manufactured homes shall conform to the specifications for these units as provided in the definition in **Section 23-1-1**.

23-2-5 **LIMIT OF UNITS.** There shall be **only one (1)** immobilized manufactured home per lot in the City.

ARTICLE III - MANUFACTURED HOME PARKS

DIVISION I - ADMINISTRATION REQUIREMENTS

23-3-1 **COMPLIANCE WITH STATUTES, APPLICABILITY OF ARTICLE.** Every manufactured home park hereafter established in the City shall, at a minimum, conform to the requirements of:

(A) The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

(B) The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the City. The applicable provisions as they pertain to Manufactured Home community shall be controlling within the corporate limits.

(C) **This Code.**

(D) **Zoning Code.**

In case of conflict between any provisions of the above, the more stringent requirement shall prevail.

23-3-2 **PERMITTING AND PLANNING A PARK.** Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or a license to operate a manufactured home park.

"Construct or operate a manufactured home park", as used in this Code shall include, but not necessarily be limited to supplying or maintaining common water, sewer, or other utility supplies or services, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **(All plans shall be submitted to the City Council or Plan Commission for approval prior to the granting of a permit.)**

23-3-3 **LOCAL GOVERNMENT REQUIREMENTS.** A permit does not relieve the applicant from complying with this Code or other ordinances applicable thereto. **(See Zoning Code, if any.)**

23-3-4 **PERMITS.** The Plan Commission or the City Council shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **"Manufactured Home Community Code"**, as approved by the **Illinois Department of Public Health**, the City Council or its designee may issue the proper permit to construct or alter a manufactured home park to the applicant. Permits shall be valid for **one (1) year from date of issue.**

23-3-5 **INSPECTION OF MANUFACTURED HOME PARK.** Upon completion of the proposed construction of a manufactured home park or the proposed alteration of a manufactured home park, the applicant shall notify the City or the designated official in order that an inspection of the complete facilities can be made.

23-3-6 **VIOLATION PROCEEDINGS.** Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor or his representative shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with the statutes, or any rules or regulations promulgated by the

City pertaining thereto. The notice shall require the licensee to remove or abate such nuisance, unsanitary or objectionable condition, specified in such notice within **five (5) days** or within a longer period of time as may be allowed by the City Council. If the licensee fails to comply with the terms and conditions of the notice within the time specified or such extended period of time, the Mayor or his representative may revoke or suspend such license.

23-3-7 **INITIAL PERMIT REQUIRED.** Each manufactured home that locates on a lot in a manufactured home park shall secure an initial Building or Zoning Permit from the City. All future locations on the same lot shall be exempt from the fee. **(See Zoning Code)**

23-3-8 - 23-3-9 **RESERVED.**

DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS

23-3-10 **PLAN DOCUMENT.** In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the City a written application and plan documents and such plan documents shall be prepared by a registered engineer or architect licensed to practice in the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the City Clerk to obtain a permit to construct or alter a manufactured home park or an original license to operate a manufactured home park, not previously licensed by the Department. These plans shall include, but not be limited to the design and construction criteria set forth herein. **[If there is a Zoning Administrator then the plans should be filed with that office.]**

23-3-11 **APPLICATION.**
(A) Every applicant shall file with the City Clerk a written application and plan documents for the proposed construction or alteration of a manufactured home park.
(B) The application shall be completed by the applicant and the engineer or architect and shall include:

- (1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of the filing of the application. If the applicant is a corporation, a copy of the certificate of incorporation must be filed with the application.
- (2) The proposed method of lighting the structures and land upon which the manufactured home park is to be located.
- (3) The plot plans of the manufactured home park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities or the proposed alterations in existing facilities.
- (4) An affidavit of the applicant as to the truth of the matters contained in the application shall be attached.
- (5) Each application shall be accompanied by an application fee of **Three Hundred Dollars (\$300.00)** for a permit to construct, or an application fee of **One Hundred Fifty Dollars (\$150.00)** for a permit to alter to increase the size of the park.

23-3-12 LOCATION.

(A) Sites selected for manufactured home development shall be well-drained and free from topographical or geological 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, if any.)**

23-3-13 ROADWAYS AND PARKING.

(A) All streets and driveways in every park shall be constructed in compliance with the Subdivision Code in **Chapter 34.**

(B) All streets in parks constructed shall have a minimum right-of-way of **fifty (50) feet** and a minimum road width of **thirty-two (32) feet** for the purpose of this Code, and shall be considered private streets to be maintained by the park owner or operator.

If a manufactured home park has more than **fifty (50) units**, a wider street may be required by the corporate authorities.

(C) Sidewalks and walkways shall be constructed abutting a street in a manufactured home park and shall be a minimum of **four (4) feet** in width; provided, however, there shall be no minimum width requirement for sidewalks for each individual lot. No portion of a manufactured home shall block, in any way, the pedestrian traffic on the walkways.

23-3-14 - 23-3-16 RESERVED.

DIVISION III - GENERALLY

23-3-17 LOT SIZE. The minimum lot size for a manufactured home pad shall be **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 or the Zoning Board.

23-3-19 - 23-3-20 RESERVED.

DIVISION IV - FEES

23-3-21 LICENSE FEE. The annual license fee per manufactured home park shall be **One Hundred Dollars (\$100.00)**, and shall be due and payable **on or before June 1st of each year**. The City Clerk shall notify the owner or operator of the annual fee at least **thirty (30) days** prior to **June 1st**.

CHAPTER 24 - MOTOR VEHICLE CODE

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CHAPTER 24

MOTOR VEHICLE CODE

ARTICLE I – DEFINITIONS

24-1-1 **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City, the provisions thereof shall be controlling within the corporate limits of the City. **(65 ILCS 5/1-3-2)**

ARTICLE II - GENERAL REGULATIONS

24-2-1 **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, and Auxiliary Police assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(625 ILCS 5/11-203)**

24-2-2 **SCENE OF FIRE.** The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

24-2-3 **SIGNS AND SIGNALS.** It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **Schedule "V" - Signs and Signals** shall be an integral part of this Section. **(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. **(625 ILCS 5/11-206)**

24-2-8 **BICYCLE LAMPS, REFLECTORS, AND EQUIPMENT.** When used at nighttime, every bicycle shall be equipped with the following:

(A) A lamp upon the front which emits a white light visible from a distance of at least **five hundred (500) feet** to the front.

(B) A red reflector on the rear which shall be visible to a distance of **six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

(C) A reflex reflector on each pedal visible from the front and rear of the bicycle from a distance up to **two hundred (200) feet** when viewed within the lawful lower beams of headlights on a motor vehicle.

(D) Side reflectors upon each side of the bicycle which shall be visible up to a distance of **five hundred (500) feet** when viewed directly in front of a lawful lower beam of motor vehicle headlights. The requirements of this subparagraph may be met by reflective materials which shall be at least **three-sixteenths (3/16) of an inch** wide on each side of each tire or rim which may 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.

24-2-9 **REGULATION OF SKATEBOARDS, IN-LINE SKATES (ROLLERBLADES OR ROLLERSKIS) AND ROLLERSKATES.** All on-street operation of skateboards, in-line skates (rollerblades and rollerskis) and rollerskates shall be conducted as far to the right of the traffic lane as possible, in a single file and flowing with traffic. All operations of these skateboards, in-line skates and rollerskates shall be during daylight hours unless the operator has a white light showing to the front and is wearing some type of reflective clothing or reflective strips on his or her clothing which can be seen from a distance of **five hundred (500) feet** to the rear and side. Further, all operation shall be consistent with the rules of the road established for bicycles. Skateboards, in-line skates and rollerskates shall be allowed on all City streets and sidewalks except for those listed in **Schedule "Z"** at the conclusion of this Code.

ARTICLE III - STOP AND THROUGH STREETS

24-3-1 **THROUGH STREETS.** The streets and parts of streets of the City designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

24-3-2 **ONE-WAY STREETS OR ALLEYS.** It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(625 ILCS 5/11-208)**

24-3-3 **STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "A"** for designated stop intersections and traffic lights. **(625 ILCS 5/11-302)**

24-3-4 **POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(625 ILCS 5/11-304)**

ARTICLE IV - DRIVING RULES

24-4-1 **ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, 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 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.** Traffic control signals, signs or markers owned by the City shall be possessed only by the City's employees, police officers, contractors, or their employees engaged in highway construction, contract or work upon the roadways or public ways approved by the City. No person shall possess a traffic control signal, sign or marker owned by the City except as provided in this paragraph without the prior written authority of the City. It shall be a violation of this Chapter for a person to possess such a traffic control signal, sign or marker without lawful authority.

(E) **Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this section, proof of the determination of the maximum speed by the City and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(625 ILCS 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the City Council, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty**

miles per hour (30 MPH) on an arterial street unless otherwise posted. **Schedule "D"** shall list the applicable streets that have specific speed limits thereon. **(625 ILCS 5/11-604)**

(G) **Special Speed Limit While Passing Schools.** No person shall drive a motor vehicle at a speed in excess of **twenty miles per hour (20 MPH)** while passing a school zone or while traveling upon any public thoroughfare on or across which children pass going to and from school during school days when school children are present as specified in **Schedule "D"**.

This section shall not be applicable unless appropriate signs are posted upon streets and maintained by the City or State wherein the school zone is located. **(625 ILCS 5/11-605)**

(H) **Failure to Reduce Speed.** A vehicle shall be driven upon the streets and alleys of this City at a speed which is reasonable and proper with regard to traffic conditions and the use of the street or alley. The fact that the vehicle does not exceed the applicable maximum speed limit does not relieve the driver of the duty to decrease speed when approaching and crossing an intersection or when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(I) **Traffic Lane Usage.** Whenever any roadway within the City has been divided into **two (2)** or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(J) **U-Turns Prohibited.** No driver of a vehicle shall make a "U-turn" on any street or at any intersection of any streets in the City.

24-4-3 DUTY TO REPORT ACCIDENT. The driver of a vehicle which is in any manner involved in an accident within the City shall, without unnecessary delay, notify the Police Department and shall make a report of such action. Failure to report an accident within the City within **twenty-four (24) hours** shall result in arrests of the person or persons involved. **(625 ILCS 5/11-415)**

24-4-4 TRANSPORTING LIQUOR IN VEHICLES. No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle in this City except in the original container and with the seal unbroken. **(625 ILCS 5/11-502)**

24-4-5 EXCESSIVE NOISE - STOPPED VEHICLE. No operator of a motor vehicle shall, when the motor vehicle is stopped, unreasonably accelerate the engine thereof with the gears of the vehicle in neutral, thereby causing an unreasonably loud or excessive noise.

24-4-6 EXCESSIVE NOISE - WHEELS. No operator of a motor vehicle shall when the motor vehicle is stopped, accelerate the engine with the gears of such vehicle in neutral and while so accelerating the engine, shift the gears of the vehicle into a forward or reverse movement, thereby causing an unreasonably loud noise with the drive wheels of the vehicle.

24-4-7 EXCESSIVE NOISE - SQUEALING TIRES. No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(625 ILCS 5/11-505)**

24-4-8 RECKLESS, NEGLIGENT OR CARELESS DRIVING. It shall be unlawful to operate any vehicle in the City in a careless, reckless, negligent or wanton manner, or carelessly so as to endanger life or property.

24-4-9 **EXCESSIVE NOISE WHILE OPERATING A MOTOR VEHICLE.** No operator of a motor vehicle shall, when operating the motor vehicle within the corporate limits, accelerate the vehicle, or engine thereof if said vehicle is stopped, or rapidly stop the vehicle causing an unreasonably loud noise. **(Ord. No. 24-81; 06-22-81)**

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 **ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12**, entitled "**Equipment of Vehicles**", as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City. **(625 ILCS 5/12-605, 5/12-605.1; and 5/12-605.2)**

24-5-2 **MUFFLER.** No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(625 ILCS 5/12-602)**

24-5-3 **SOUND AMPLIFICATION SYSTEMS.** No driver of any motor vehicle within this City shall operate or permit operation of any sound amplification system which can be heard outside the vehicle from **seventy-five (75) feet** or more when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. This Section shall not apply to authorized emergency vehicles. **(625 ILCS 5/12-611)**

24-5-4 **EXCESSIVE ENGINE BRAKING NOISE PROHIBITED.** It shall be unlawful for the operator of a commercial vehicle as defined in **625 ILCS 5/1-111.8** to operate or actuate any engine braking system within the City that emits excessive noise unless it is an emergency. The Superintendent is authorized and directed to post signs stating: "**EXCESSIVE ENGINE BRAKING NOISE PROHIBITED**" at appropriate locations. **(625 ILCS 5/12-602.1)**

ARTICLE VI - PARKING RULES

24-6-1 **TIME LIMIT PARKING.** It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

24-6-2 **PARKING FOR SALE, REPAIR OR PEDDLING PROHIBITED.** No person shall park a vehicle upon any street for the purpose of:

- (A) displaying such vehicle for sale; or
- (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary; or
- (C) peddling merchandise.

24-6-3 **PRIVATE PROPERTY.** It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property. **(Ord. No. 14-67; 11-13-67)**

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.
 - (m) In the grassy area between the street and sidewalk. **(Ord. No. 7-2004; 03-08-04)**
- (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 Prohibitions.** No person shall park any vehicle, vehicles or trailer the length of which exceeds **twenty (20) feet** or any Second Division vehicle licensed for an "F" classification or higher:
- (1) Upon any street, alley or any public way within the City except for the purpose and time period reasonably necessary to load and unload the same.
 - (2) Upon public or private property within the City with the motor running for a continuous period in excess of **thirty (30) minutes. (625 ILCS 5/3-815)**
- (E) **Recreational, Watercraft and Trailer Parking Prohibitions.** No person shall park any recreational vehicle to include but not limited to motorhomes, campervans, coaches, caravans (also known as travel trailers and camper trailers), fifth-wheel trailers, popup campers, and truck campers; watercraft to include but not limited to boats, ships, hovercraft, submarines and personal watercraft such as jet skis, etc.; or trailer upon the edge or curb of a street, alley or right-of-way. **(Ord. No. 24-2021; 11-08-21)**
- (F) A fine of **Twenty-Five Dollars (\$25.00)** per day shall be imposed for the violation of any parking rule established within the City. **(Ord. No. 24-2021; 11-08-21)**

24-6-5 PARKING FOR THE HANDICAPPED.

- (A) **Designated Parking.** Certain parking spaces within the confines of the City shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.
- (B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the City.
- (C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(625 ILCS 5/11-1301.2)**
- (D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency 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. **(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 **TOWING CARS AWAY.** The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car, boat, trailer, or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle; or any vehicle which has been parked in any public street or other public place for a period of **twenty-four (24) hours**.

Vehicles towed away shall be stored on any City property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the City in removing and storing such vehicle(s).

24-6-8 **PARKING VIOLATIONS.** Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the City **Ten Dollars (\$10.00)** for each such offense and **Fifteen Dollars (\$15.00)** for the second offense within **six (6) months**. Such payment may be made at the City Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **five (5) days**.

Provided, this Section shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is kept or housed or so as to block an emergency entrance in a hospital. Nor shall this section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department.

(A) **Removal - Time Limit.** Any vehicle illegally parked for a period in excess of **twenty-four (24) hours** may be removed by a towing service authorized by the Police Department of the municipality. In any emergency, any vehicle may be removed by any means when authorized by the Police Department of the municipality.

(B) **City Parking Lots.** No person shall park a motor vehicle on a City parking lot unattended for more than **five (5)** consecutive days.

(C) **Parking Violation Ticket.** The parking violation ticket shall be as follows:

24-6-9 **PRIMA FACIE PROOF.** The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

24-6-10 **PARKING LIMITATIONS DURING SNOW REMOVAL.** It shall be unlawful to park any vehicle on any public street in the City at any time after a snowfall of **three (3)** or more inches has occurred until the street has been plowed clear of snow. See **Schedule "K"** for snow routes. **(Ord. No. 49-78; 12-26-78)**

24-6-11 **PARKING TICKETS - STATE STATUTE.** The City Council intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein. The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

24-6-12 **RESIDENTIAL PARKING ZONES.**
(A) **Authority to Create.** It is within the power vested in the City Council, as approved by the Mayor, to create a restricted parking zone entitled a "Residential Parking Zone".
(B) **Establishing a Residential Parking Zone.** By the authority vested in the City **Schedule "G"**, residential parking zone classification is hereby established.
(C) **Restrictions Following a Residential Parking Zone Classification.** Pursuant to the residential parking zone classification, parking is restricted to any and all drivers with the only exception being to those residents of the street in said block who may and are heretofore permitted to continue to park their motor vehicles in the restricted area without regard to this Section. **(Ord. No. 72-88; 10-24-88)**

ARTICLE VII – ABANDONED, INOPERABLE AND UNLICENSED VEHICLES

24-7-1 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article:

Abandoned Vehicle: Any vehicle which is left unattended on any street, alley or any public property, for a period of **ten (10) days** or longer, without being moved or entered by the owner or bailee of the vehicle in question.

Inoperable Motor Vehicle: Any motor vehicle from which, for a period of at least **ten (10) 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 vehicles shall not include any vehicle when:

- (A) It is rendered temporarily incapable of being driven under its own power in order to perform maintenance or repairs to the vehicle in question; or
- (B) It is kept within a completely enclosed building or carport; or
- (C) It is maintained on the property of a business enterprise lawfully engaged in the repair, wrecking or junking of motor vehicles.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind.

Property: Any real property within the City, which is not a street or highway.

Street or Highway: The entire width between the boundary lines of every public way when any part thereof is open to the use of the public for purposes of vehicular travel.

Unlicensed Vehicle: Any vehicle not bearing a current license plate and not stored in a completely closed building or carport on any residential zoned property.

Vehicle: A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include without limitation automobile, truck, trailer, motorcycle and tractor.

24-7-2 **ABANDONED VEHICLES PROHIBITED.**

- (A) No person shall abandon a vehicle within the City.
- (B) The abandonment of a vehicle or any part thereof on public property, in view of the general public, in this City, is unlawful. When an abandoned, unlicensed, unattended, wrecked, burned or partially dismantled vehicle is left unattended on public property, for **ten (10) days** or more, its removal by a towing service may be authorized by the Police Department.
- (C) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the street or highway, its immediate removal from the street or highway by a towing service may be authorized by the Police Department.
- (D) When a vehicle is removed from either public or private property by authorization of the Police Department or the Code Inspector, the owner of the vehicle shall be responsible for all towing and storage costs.

24-7-3 **INOPERABLE MOTOR VEHICLES.**

- (A) No person shall leave an inoperable motor vehicle, as that term is defined in **Section 24-7-1** of this Chapter, upon any private property within the City limits.
- (B) No person shall leave any motor vehicle from which the engine, wheels or other parts have been removed, altered, damaged, or otherwise so treated as to render the motor vehicle incapable of being driven under its own motor power, on any street, alley, highway, or other public property within the City limits for a period of time greater than **ten (10) days**.
- (C) All inoperable vehicles, as defined in **Section 24-7-1** herein, and whether located on public or private property and in view of the general public, are hereby declared to be a nuisance, and any person who fails to obey a notice to dispose of an inoperable vehicle is subject to fines and penalties as set forth herein.

24-7-4 **UNLICENSED MOTOR VEHICLES IN RESIDENTIAL AREAS.** No person shall park or store any unlicensed vehicle on any residentially zoned property within the City other than in a completely closed building or carport.

24-7-5 **DISPOSAL OF INOPERABLE MOTOR VEHICLES.**
 (A) **Disposition Required.** Any owner or bailee of an inoperable motor vehicle located on private property in a manner not in accord with the definition of "inoperable motor vehicle" in **Section 24-7-1** of this Chapter, must dispose of the vehicle within **ten (10) days** of having received notice from the Code Inspector, the Chief of Police, or their designees, commanding disposition of the inoperable motor vehicle.

(B) Notice shall be given as follows:

- (1) Written notice is required for all inoperable motor vehicles bearing a license plate, and shall be in substantial compliance with the following requirements:
 - (a) Notice must be sent to the last known owner of the inoperable motor vehicle, as reflected in the vehicle registration records of the Secretary of State for the State of Illinois, or the functional equivalent of such for the state whose name appears on the license which is displayed by the inoperable motor vehicle, at the address indicated by such records, and to the owner or occupant of the property where the vehicle is located.
 - (b) Notice shall be sent certified or registered mail, with return receipt requested.
 - (c) Notice shall include the following information:
 - (i) A description of the inoperable motor vehicle.
 - (ii) The location of the inoperable motor vehicle.
 - (iii) The date on which the notice was mailed.
 - (iv) Information that the inoperable motor vehicle will be towed at the direction of the City and at the owner's expense if not properly disposed of within **ten (10) days** of receipt of the written notice.
 - (v) The location to which the inoperable motor vehicle will be towed, together with the approximate fee for towing and storage; and
 - (vi) The legal and factual basis for the City's determination that the vehicle is inoperable and potentially subject to towing; and
 - (vii) A date of not less than **three (3) days** and not more than **ten (10) days** subsequent to the mailing of the notice at which time a hearing shall be held to determine whether the vehicle shall be towed.
- (2) If the inoperable motor vehicle does not bear a license plate, or if notice by mail is unsuccessful, there shall be placed upon the windshield, or if none exists, upon any other conspicuous place on the inoperable motor vehicle, a self adhesive sign not less than **four (4) inches** by **five (5) inches (4 x 5)** in size the following information:
 - (a) The legal and factual basis for the City's determination that the vehicle has been deemed to be an inoperable motor vehicle.
 - (b) The date on which the sign was placed upon the vehicle.
 - (c) Information that the inoperable motor vehicle will be towed at the direction of the City and at the owner's expense if not properly disposed of within **ten (10) days**.
 - (d) The location to which the inoperable motor vehicle will be towed, together with the approximate fee for towing and storage; and

- (e) A date of not less than **three (3) days** and not more than **ten (10) days** after the notice is posted at which time a hearing shall be held to determine whether the vehicle shall be towed.
- (3) **Hearing.** Not less than **three (3) days** and not more than **ten (10) days** after the notice described in subsections (1) and (2) of this Section is mailed, or posted, the Code Inspector shall hold a hearing. If the owner or bailee of the inoperable motor vehicle appears, he shall present sufficient evidence to show cause why the vehicle should not be towed. If the owner or bailee of the inoperable motor vehicle fails to appear, the Code Inspector shall receive a written statement from the complaining witness as to why the complaining witness believes the vehicle to be an inoperable motor vehicle and should be towed. If the Code Inspector finds the vehicle to be an inoperable motor vehicle, which should be towed, he shall make a notation of the vehicle's description, its present location, and the location to which it is to be towed. The notation shall be delivered to the Chief of Police and a copy thereof shall be maintained by the Code Inspector. Subsequent to the Code Inspector's finding that a vehicle is inoperable and should be towed, the City shall obtain a warrant or other permission from a Judge of the Circuit Court for Williamson County, Illinois, before towing the subject vehicle.

24-7-6 DISPOSAL OF ABANDONED VEHICLES. Any owner or bailee of an abandoned vehicle must move or otherwise dispose of such vehicle within **ten (10) days** of having received notice from the Chief of Police or Code Inspector.

Notice to remove shall be given as set forth in **Section 24-7-5** of this Article.

A hearing shall be held as set forth in **Section 24-7-5** of this Article.

24-7-7 DISPOSAL OF UNLICENSED VEHICLES. Any owner or bailee of an unlicensed vehicle must move or otherwise dispose of such vehicle within **ten (10) days** of having received notice from the Code Inspector or the Chief of Police.

Notice to remove shall be given as set forth in **Section 24-7-5** of this Article.

A hearing shall be held as set forth in **Section 24-7-5** of this Article.

24-7-8 RECORD KEEPING. Whenever a vehicle is authorized to be towed away pursuant to this Article, the Chief of Police or Code Inspector shall keep and maintain a record of the vehicle towed, listing its color, year of manufacture, make, model, body style, Vehicle Identification Number (VIN), if any, license plate year and number. The record shall also include the date and hour of tow, the location towed from and to, and the reason for towing.

24-7-9 EMERGENCY DISPOSAL. When an abandoned, unlicensed or inoperable motor vehicle creates an imminent hazard to traffic or the health, safety, or welfare of the City, the Chief of Police may tow the vehicle without giving prior notice and providing a hearing prior to the vehicle being towed. However, the Chief of Police must notify the owner or bailee of the vehicle within **three (3) days** of the tow by sending written notice to the owner or bailee by certified mail, return receipt requested. The notice must include the following:

- (A) A statement that the vehicle has been towed, and the legal and factual basis for the determination that the vehicle was towed for being abandoned, unlicensed, and/or inoperable.
- (B) The location to which the vehicle was towed.
- (C) The name, address, and telephone number of the Police Department.
- (D) The opportunity to schedule a hearing within **ten (10) days** after having received notice.

24-7-10 **PENALTIES.** Any person who violates any provision of this Article shall be fined in an amount of not less than **One Hundred Dollars (\$100.00)**, plus attorney fees and court costs incurred by the City in prosecuting any such violation, and not more than **One Thousand Dollars (\$1,000.00)**. Each day such violation is committed or allowed to continue shall constitute a separate offense and shall be punishable as such.

(This Article Ord. No. 14-2014; 06-23-14)

**ARTICLE VIII – ADMINISTRATIVE FEES AND PROCEDURES FOR
IMPOUNDING VEHICLES FOR SPECIFIED VIOLATIONS**

24-8-1 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article:

(A) **Administrative Hearing Officer.** Officer who is an attorney licensed to practice law in the State of Illinois for a minimum of **three (3) years**.

(B) **Business Day.** Any day in which the office of City Hall are open to the public for a minimum of **eight (8) hours**.

(C) **Controlled Substances.** Any substance as defined and included in the scheduled of Article II of the Illinois Controlled Substances Act, **720 ILCS 570/201 et seq.**, and cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.**

(D) **Driving a Vehicle by Person Subject to Warrant.** Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated Section 6-101, 6-303, or 11-501 of the Illinois Vehicle Code.

(E) **Driving on a Suspended or Revoked License, Permit, or Privilege to Operate a Motor Vehicle.** Any offenses as defined in Section 5/6-303 of the Illinois Vehicle Code, **625 ILCS 5/6-303**; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing.

(F) **Driving on an Expired License.** Operation or use of a motor vehicle with an expired license, in violation of Section 5/6-101 of the Illinois Vehicle Code, if the period of expiration is greater than **one (1) year**.

(G) **Driving Under the Influence of Alcohol, Drugs and/or Intoxicating Compounds.** Any offenses as defined in Section 5/11-501 of the Illinois Vehicle Code.

(H) **Driving Without a License or Permit.** Operation or use of a motor vehicle without ever having been issued a license or permit, in violation of Section 6-101 of the Illinois Vehicle Code, or operating a motor vehicle without ever having been issued a license or permit due to a person’s age.

(I) **Drug Paraphernalia.** Any equipment, products and materials as defined in **720 ILCS 600/2**.

(J) **Fleeing or Attempting to Elude a Police Officer.** Any offenses as defined in Section 5/11-204 or 11-204.1 of the Illinois Vehicle Code.

(K) **Leaving the Scene of a Personal Injury or Property Damage Accident.** Any offenses as defined in Sections 5/11-401, 5/11-402, and 5/11-403 of the Illinois Vehicle Code.

(L) **Level 1 Administration Fee. Four Hundred Dollars (\$400.00).**

(M) **Level 2 Administration Fee. Two Hundred Dollars (\$200.00).**

(N) **Misdemeanor.** Any misdemeanor offense as defined by an Illinois statute or the Herrin Revised Code of Ordinances.

(O) **Motor Vehicle.** Every vehicle which is, may be, or is intended to be self-propelled, including but not limited to automobiles, trucks, vans, motorcycles, and motor scooters.

(P) **Owner of Record/Interested Person.** The recorded title holder(s) or lienholder(s) of the subject motor vehicle as registered with the Secretary of State of the State of Illinois, or if not registered in Illinois, of the particular state where the subject motor vehicle is registered.

(Q) **Preliminary Hearing Officer.** The Chief of Police or his designated agent.

(R) **Theft Offense.** Any offense in violation of Article 16 of the Criminal Code, Chapter 720 of the Illinois Compiled Statutes.

(S) **Traffic Violation.** Any offense as defined by the Illinois Vehicle Code or the Herrin Revised Code of Ordinances.

(T) **Weapons Offense.** Any of the following offenses contained within Article 24 of Chapter 720 of the Illinois Compiled Statutes: **720 ILCS 5/24-1, 24-1.1, 24-1.2, 24-1.25, 24-1.5, 24-1.6, 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.2, 24-3.3, 24-3.4, 24-3.5, 24-3.6 and 24-3A.**

24-8-2 **MOTOR VEHICLE IMPOUNDMENT.** Pursuant to **625 ILCS 5/11-208.7**, the City of Herrin shall follow the procedures set forth in this Article when impounding motor vehicles for the offenses enumerated in this Article and imposing reasonable administrative fees, payable to and collected by the City, said fees being rationally related to the City's administrative and processing costs associated with the investigation, arrest, and detention of an offender, or the removal, impoundment, storage and release of the vehicle. The administrative fees imposed herein by the City shall be uniform for all similarly situated vehicles and are in addition to any other penalties or fees that may be assessed by a court of law for the underlying violations, or by a person, firm, or entity that tows and stores the impounded vehicle.

24-8-3 **VIOLATIONS AUTHORIZING IMPOUNDMENT AND FEES.**

(A) Any motor vehicle, operated with the express or implied permission of the owner of record/interested person, that is used in connection with the following violations shall be subject to seizure and impoundment by the City, and the owner of record of said motor vehicle or its agent shall be liable to the City for a level 1 administrative fee, as provided for in this Section, in addition to any fees for the towing and storage of the vehicle and any other criminal penalties assessed by a court of law for the underlying offense as hereinafter provided:

- (1) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of Illinois; or
- (2) Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of Section 11-501 of the Illinois Vehicle Code; or
- (3) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act; or
- (4) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act; or
- (5) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of Section 24-1 (unlawful use of weapons), 24-1.5 (reckless discharge of a firearm), or 24-3.1 (unlawful possession of firearms and firearm ammunition) of the Illinois Criminal Code; or
- (6) Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to Section 6-303 of the Illinois Vehicle Code; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing; or
- (7) Operation or use of a motor vehicle while soliciting or attempting to solicit cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act; or
- (8) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of Article 16 (theft offenses) or 16A (retail theft offenses) of the Criminal Code of Illinois; or
- (9) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other felony offense in violation of the Criminal or Vehicle Codes of Illinois.

(B) Any motor vehicle, operated with the express or implied permission of the owner of record/interested person that is used in connection with the following violations, including arrest warrants, but not including those violations listed in Subsection (A) of this Section (above), shall be subject to seizure and impoundment by the City, and the owner of record or its agent, shall be liable to the City for a level 2 administrative fee, as provided for in this Section, in addition to any fees for the towing and storage of the vehicle and any other criminal penalties assessed by a court of law for the underlying offense as hereinafter provided:

- (1) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor violation of the Cannabis Control Act; or
- (2) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor offense in violation of Article 16 (theft offenses) or 16A (retail theft offenses) of the Criminal Code of Illinois; or
- (3) Operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of the Illinois Vehicle Code if the period of expiration is greater than **one (1) year**; or
- (4) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor offense in violation of the Criminal or Vehicle Codes of Illinois.

24-8-4 SEIZURE AND IMPOUNDMENT.

(A) Whenever a police officer has reason to believe that a motor vehicle is subject to seizure and impoundment due to one or more of the violations enumerated in **Section 24-8-3** and pursuant to this Article, the police officer shall provide for the towing of the motor vehicle to a facility controlled or approved by the City. This Section shall not apply if the motor vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within **twenty-four (24) hours** after the theft was discovered or reasonably should have been discovered.

(B) The City shall notify, or make a reasonable attempt to notify, the owner of record/interested person or any person who is found to be in control of the motor vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the motor vehicle owner's right to an administrative hearing to be conducted pursuant to this Article.

(C) The City shall also provide a notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner of record/interested person of the vehicle posts with the City a bond equal to the administrative fee as provided by this Article and pays for all towing and storage charges. Whenever the owner of record/interested person of a vehicle seized pursuant to this Article requests in a writing hand-delivered to the Police Department a preliminary hearing on probable cause within **twelve (12) hours** after the seizure, a preliminary hearing officer shall conduct such preliminary hearing within **seventy-two (72) hours** after the seizure, excluding Saturdays, Sundays and holidays. The owner of record/interested person at the time of the alleged offense shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the preliminary hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime described as a level 1 or level 2 administrative fee offense, the preliminary hearing officer shall order the continued impoundment of the vehicle as provided in this Article unless the owner of record/interested person posts with the City a cash bond in the amount of the level 1 or level 2 administrative fee, plus fees for towing and storing the vehicle. If the preliminary hearing officer determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.

24-8-5 ADMINISTRATIVE HEARING.

(A) Within **ten (10) days** after a motor vehicle is seized and impounded pursuant to this Article, the City shall notify by personal service or by first class mail, return receipt request, to the owner of record/interested person, of the right to a hearing before the administrative hearing officer, along with the date, time and location of the hearing, to challenge whether a violation of this Article has occurred. The owner of record/interested person shall also be notified of the continued impoundment of the vehicle as provided in this Section unless the owner of record/interested person posts with the City a cash bond in the amount of the level 1 or level 2 administrative fee, plus fees for towing and storing the vehicle. The hearing date must be scheduled and convened no later than **forty-five (45) days** after the mailing of the notice or issuance of the notice of hearing, when requested. The owner of

record/interested person and any other interested person(s) shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing, and hearsay evidence shall be admissible.

(B) If, after the hearing, the administrative hearing officer determines by a preponderance of the evidence that the motor vehicle was used in violation of any of the enumerated offenses of this Article, then the administrative hearing officer shall enter an order finding the owner of record of the motor vehicle liable to the City for the applicable administrative fee.

(C) If, after the hearing, the administrative hearing officer does not determine by a preponderance of the evidence that the motor vehicle was used in such a violation, the administrative hearing officer shall enter an order finding for the owner and for the return of the motor vehicle, or the administrative fees if already paid.

(D) If the owner of record fails to appear at the hearing, the owner of record/interested person shall be deemed to have waived his or her right to a hearing. If the owner of record/interested person pays such administrative fee and the motor vehicle is returned to the owner of record/interested person, no default order need be entered if the owner of record/interested person was informed of his or her right to a hearing, in which case an order of liability shall be deemed to have been made when the City receives the written waiver.

(E) If a bond in the amount equal to the administrative fee is posted with the Police Department, the impounded motor vehicle shall be released to the owner of record/interested person. The owner of record/interested person shall still be liable to the towing agent for any applicable towing and storage fees.

(F) If an administrative fee is imposed pursuant to this Section, the bond will be forfeited to the City; however, if none of the enumerated offenses in this Article are 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 Article shall be held by the City until the administrative hearing officer issues a decision, or, if there is a judicial review, until the court of jurisdiction issues its order(s).

(G) All decisions of the administrative hearing officer shall be subject to review under the provisions of the Illinois Administrative Review Law.

24-8-6

DISPOSITION OF IMPOUNDED MOTOR VEHICLES.

(A) An administrative fee imposed pursuant to this Article shall constitute a debt due and owing to the City.

- (B) A motor vehicle impounded pursuant to this Article shall remain impounded until:
- (1) The administrative fee is paid to the City and all applicable towing fees are paid to the towing agent, in which case the owner of record/interested person shall be given possession of the motor vehicle;
 - (2) A bond in an amount equal to the administrative fee is posted with the Police Department and all applicable towing fees are paid to the towing agent, at which time the motor vehicle will be released to the owner of record/interested person; or
 - (3) Any motor vehicle that is not reclaimed or retrieved from the facility controlled or approved by the City within **thirty-five (35) days** after the administrative hearing officer issues a written decision shall be deemed abandoned and may be disposed of in accordance with the provisions of Article II of Chapter 4 of the Illinois Vehicle Code.
 - (4) The administrative fee imposed by the City for impounded vehicles shall be in addition to any fees charged for the towing and storage, or both, of an impounded vehicle. The towing or storage fees, or both, shall be collected by and paid to the person, firm, or entity that tows and stores the impounded vehicle. The towing and/or storage company shall be entitled to receive a fee from the owner of record/interested person entitled to possession of any such vehicle prior to the release of the vehicle. The fee shall be to cover the cost of removing said vehicle and, in addition, any fees for the cost of storage of the vehicle for each day or

- fraction thereof that said vehicle remained at their storage facility in compliance with their practices.
- (5) It shall be the duty of the towing or storage company in possession of the vehicle to obtain documentation issued by the Police Department confirming compliance with the foregoing requirements and to retain photocopies of that documentation in their file for a period of not less than **twelve (12) months** following release of said vehicle. The foregoing information shall be made available to the authorities of the City for inspection and copying, upon their request, by the towing or storage company. The towing or storage company is prohibited from releasing any vehicle they may tow within the City until and unless they obtain the documentation as noted above.
 - (6) The administrative fees established by this Article are to be paid by the owner of record/interested person, or the agents of the owner of record/interested person, of the vehicle involved in the incident leading to custodial arrest regardless of whether that person was operating the vehicle at the time of the incident. Vehicles towed by the Police Department for any reason other than those listed in this Article shall be released to the owner of record/interested person with no administrative fee charged by the City. The person purporting to be the owner of record/ interested person, or the agents of the owner of record/interested person, must present proof of ownership, current proof of insurance and possess a valid driver's license prior to release of the subject vehicle.
 - (7) Upon verifiable proof that the vehicle used in violation was stolen at the time it was impounded; or if the vehicle was operating as a common carrier including, but not limited to taxicabs or busses and the violation occurred without the knowledge of the person in control of the vehicle, the administrative fee shall be waived by the City.
 - (8) Unless stayed by a court of competent jurisdiction, any administrative fee imposed under this Article which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. This Section incorporates Sections 4-201 through 4-214.1 of the Illinois Vehicle Code to the extent they are consistent. Where a provision of this Section differs from Sections 4-201 through 4-214.1 of the Illinois Vehicle Code, the provisions of this Section shall be controlling. Enforcement and administration of this Section shall be consistent with the policies and procedures of Sections 4-201 through 4-215 of the Illinois Vehicle Code to the extent that said policies and procedures do not directly conflict with the provisions of this Section.

24-8-7 **ESTABLISHMENT OF RESTRICTED REVENUE ACCOUNT.** All fees collected under this Article shall be placed into a restrictive revenue account within the City to be used solely for the purchase of police vehicles, equipment and administrative/management expenses. **(Ord. No. 19-2021; 09-27-21)**

(Ord. No. 5-2017; 02-13-17)

ARTICLE IX – GOLF CARTS

24-9-1 CONSTRAINTS. Golf carts and utility-terrain vehicles (not intended for 4 wheelers), as defined and qualified herein shall be allowed on City streets under the conditions as stated herein.

24-9-2 DEFINITIONS.

(A) A **“Golf Cart”** is defined as a motorized vehicle with **three (3) or four (4) wheels** that is not designed to be operated at a speed of more than **twenty-five (25) miles per hour**, but is capable of attaining in **one (1) mile** a speed of more than **fifteen (15) miles per hour**, whose purpose can include, but is not limited to, the playing of golf and is generally designed to carry persons including the driver.

(B) **“Utility Terrain Vehicle”** (not intended for 4 wheelers) shall mean a self-propelled, electrically powered four-wheel motor vehicle or a self-propelled gasoline or diesel powered four wheeled motor vehicle with an engine displacement under 1,200 cubic centimeters which is capable of attaining in **one (1) mile** a speed of more than **fifteen (15) miles per hour** but not more than **twenty-five (25) miles per hour** and which conforms to the federal regulations under Title 49 C.F.R. Part 571.500.

(C) **“City Streets”** means any of the streets within the boundaries of the City.

24-9-3 REQUIREMENTS. All persons wishing to operate a golf cart or a utility-terrain vehicle on the City streets must ensure compliance with the following requirements:

(A) Proof of current liability insurance at all times during the term of any permit under this Article.

(B) Must be approved and have each vehicle certified with the City pursuant to this Article by inspection by the Chief of Police or designated representative.

(C) Must comply with the published “Rules Concerning Alternate Transportation for the City of Herrin” as periodically updated.

(D) Must have a current City decal for each vehicle issued by the City Clerk at the direction of the Chief of Police or designated representative evidencing the permit required from the City under this Article displayed on the rear of the vehicle in a location designated by the Chief of Police or designated representative.

(E) Must have a current and valid Illinois driver’s license.

(F) Golf carts 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) Driver and passenger seat belts;
- (8) Approved “Slow Moving Vehicle” emblem on the rear of the vehicle (**625 ILCS 5/12-709**);
- (9) Headlight that emits a white light visible from a distance of **three hundred (300) feet** to the front which must illuminate when in operation;
- (10) Tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear which must be illuminated when in operation;
- (11) Any additional requirements which may be amended to **65 ILCS 5/11-1428** or the Illinois Vehicle Code.

(G) Utility-Terrain Vehicles must be equipped as follows:

- (1) Brakes and brake lights;

- (2) Turn signals on the front and rear;
- (3) A steering wheel apparatus;
- (4) Tires;
- (5) Rearview mirror;
- (6) Driver and passenger seat belts;
- (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 which must illuminate when in operation;
- (9) Tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear which must be illuminated when in operation;
- (10) OEM (Original Equipment Manufactured) exhaust;
- (11) Any additional requirements which may be amended to **65 ILCS 5/11-1426.1** or the Illinois Vehicle Code;
- (12) Horn. (**Ord. No. 11-2017; 06-12-17**)
- (H) Must obey all traffic laws of the State of Illinois and the City.
- (I) Must be **eighteen (18) years** of age.
- (J) Must be operated only on City streets, except where prohibited under this Article.
- (K) May not be operated on Illinois State Route 148/Park Avenue, except to cross this roadway, nor on Herrin Road, with the exception of crossing Herrin Road and the approximate **one (1) block** distance on Herrin Road between 18th Street and Weaver Road, nor any roadway within the City limits with a posted speed limit higher than **thirty-five (35) miles per hour**.
- (L) Must not be operated in excess of the posted speed limit and, with respect to utility-terrain vehicles and golf carts, may not exceed **twenty-five (25) miles per hour**.
- (M) A person operating or in actual physical control of a golf cart or utility-terrain vehicle as described herein on a roadway while under the influence is subject to Section 11-500 through 11-502 of the Illinois Compiled Statutes (**625 ILCS 5/11-500 – 11-502**).
- (N) Golf carts and utility-terrain vehicles shall not be operated on sidewalks or in City Parks other than in designated parking areas.
- (O) Golf carts and utility-terrain vehicles may not be operated on streets and highways and roads under the jurisdiction of the Illinois Department of Transportation.

24-9-4 PERMITS.

- (A) No person shall operate a qualified golf cart or utility-terrain vehicle without first obtaining a permit from the City Clerk at the direction and approval of the Chief of Police or designated representative as provided herein. Permits shall be granted for a period of **one (1) year** beginning **May 1** of each year and renewed annually. The cost of each permit is **Fifty Dollars (\$50.00)** per year or **Thirty Dollars (\$30.00)** if received after **November 1** of the first year only. Each replacement decal shall cost **Thirty Dollars (\$30.00)**. No permits nor decals may be transferred between individuals or any golf carts or utility-terrain vehicles. The required insurance coverage shall be verified by the Police Department when obtaining or renewing a permit.
- (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 and address of liability insurance carrier;
 - (3) The serial number, make, model and description of the golf cart or utility-terrain vehicle;
 - (4) Signed Waiver of Liability by applicant releasing the City and agreeing to indemnify and hold the City harmless from any and all future claims resulting from the operation of their golf cart or utility-terrain vehicle on the City streets;
 - (5) Photocopy of applicable liability insurance coverage card specifically for each golf cart or utility-terrain to be operated pursuant to the permit;

- (6) A copy of this Article as amended with a receipt signed annually by each applicant for a permit issued pursuant to this Article.
 - (7) Such other information as the Chief of Police or designated representative may require.
- (C) No permit shall be granted unless the following conditions are met:
- (1) Each golf cart or utility-terrain vehicle must be inspected by the Chief of Police or designee representative to insure that each golf cart or utility-terrain vehicle is safe to operate on City streets and is in compliance with this Article and the State of Illinois Motor Vehicle Code;
 - (2) A physically handicapped applicant must submit a certificate signed by the physician, certifying that the applicant is able to safely operate a qualified golf cart or utility-terrain vehicle on City streets;
 - (3) The applicant must provide evidence of insurance in compliance with provisions of the Illinois Statutes regarding minimum liability insurance for passenger motor vehicles to be operated on the roads of the State of Illinois for each golf cart or utility-terrain vehicle for which a permit is issued pursuant to this Article.

(D) The Chief of Police or designated representative may suspend or revoke a permit granted hereunder upon finding that the holder thereof has violated any provision of this Article or there is evidence that holder thereof cannot safely operate a qualified golf cart or utility-terrain vehicle on the designated roadways.

(E) **Reciprocity.** The Village of Energy has enacted an ordinance essentially identical in restrictions and requirements specified in the City of Herrin Code. As such, the City agrees to recognize valid permits issued by the Village of Energy for vehicles of this classification when operated within the City of Herrin. All vehicles with a valid Village of Energy permit operating within the City of Herrin will be subject to the same restrictions and requirements (excluding inspections and permit fees) as specified in the Herrin City ordinance governing the operation of golf carts and UTV's on City roadways. **(Ord. No. 11-2017; 06-12-17)**

24-9-5 VIOLATIONS. Any person who violates any provision of this Article shall be guilty of a petty misdemeanor and shall be punished by a fine of **Seventy-Five Dollars (\$75.00)**. Any second or subsequent offense shall result in the revocation of the permit to operate a qualified golf cart or utility-terrain vehicle for a period of not less than **three (3)** nor more than **five (5) years**. 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 subject to criminal prosecution.

(Ord. No. 6-2017; 03-13-17)

(625 ILCS 5/11-1426.1)

MOTOR VEHICLE CODE CITATION FORM

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 **\$15.00** will be collected.

FOR YOUR CONVENIENCE

After detaching your Ticket Stub, place the fine in the envelope and deposit at City Hall.

SCHEDULE "A"

TWO-WAY STOP INTERSECTIONS

In accordance with Section 24-2-3, the following are designated as Stop and Through Intersections:

<u>THROUGH STREET</u>		<u>STOP STREETS (DIRECTION)</u>
4th St.	at	Poplar St. (Both) (#25-84)
5th St.	at	Ash St. (Both)
7th St.	at	Herrin St. (Both) (#66-86)
7th St.	at	Pine St. (Both) (#25-84)
9th St.	at	Walnut St. (Both) (#31-85)
10th St.	at	Adams St. (Both) (#30-88)
10th St.	at	Cypress St. (Both) (#27-78)
10th St.	at	Ford St. (Both) (#70-86)
10th St.	at	Harrison St. (Both) (#52-85)
10th St.	at	Madison St. (Both) (#30-88)
10th St.	at	Taylor St. (East Bd.)
10th St.	at	Tyler St. (Both)
11th St.	at	Ash St. (East Bd.)
11th St.	at	Cemetery Rd. (West Bd.)
11th St.	at	Harrison St. (Both) (#30-88)
11th St.	at	Madison St. (Both) (#30-88)
11th St.	at	Tyler St. (Both) (#30-88)
12th St.	at	Adams St. (Both) (#8-87)
12th St.	at	Ash St. (Both) (#30-88)
12th St.	at	Cherry St. (Both)
12th St.	at	Harrison St. (#43-83)
12th St.	at	Madison St. (Both) (#8-87)
12th St.	at	Polk St. (Both)
12th St.	at	Taylor St. (Both) (#30-88)
12th St.	at	Tyler St. (Both) (#30-88)
12th St.	at	Van Buren St. (Both) (#30-88)
12th St.	at	East Van Buren (#36-82)
12th St.	at	Walnut St. (Both)
13th St.	at	Adams St. (Both)
13th St.	at	Ash St. (Both)
13th St.	at	Cherry St. (Both)
13th St.	at	Maple St. (Both)
13th St.	at	Pine St. (Both)
13th St.	at	Taylor St. (West Bd.)
13th St.	at	Tyler St. (Both)
13th St.	at	Van Buren St. (Both)

SCHEDULE "A" (CONTINUED)

TWO-WAY STOP INTERSECTIONS (CONTINUED)

THROUGH STREET		STOP STREETS (DIRECTION)
13th St.	at	Walnut St. (Both)
13th St.	at	Wilson St. (Both) (#65-86)
14th St.	at	Hemlock St. (Both)
14th St.	at	Lyerla Dr. (Both) (#31-91)
14th St.	at	Oak St. (Both) (#30-88)
14th St.	at	Olive St. (#37-82)
14th St.	at	Polk St. (Both) (#39-82)
14th St.	at	East Stotlar St. (#6-83)
14th St.	at	Tyler St. (East Bd.) (#30-88)
14th St.	at	Van Buren St. (Both)
14th St.	at	Walnut St. (West Bd.)
16th St.	at	Ash St. (Both)
16th St.	at	Cherry St. (Both)
16th St.	at	McKinley St. (Both) (#33-85)
16th St.	at	Oak St. (Both)
16th St.	at	Pine St. (Both)
16th St.	at	Polk St. (Both) (#30-88)
16th St.	at	Poplar St. (Both) (#30-88)
16th St.	at	West Stotlar St. (Both) (#20-87)
16th St.	at	Taylor St. (Both) (#30-88)
16th St.	at	Walnut St. (Both)
17th St.	at	Pine St. (Both)
17th St.	at	Poplar St. (Both)
17th St.	at	Tyler St. (West)
18th St.	at	Ash St. (Both) (#30-88)
18th St.	at	Cherry St. (Both) (#12-94)
18th St.	at	Harrison St. (Both)
18th St.	at	Pine St. (Both) (#30-88)
18th St.	at	Poplar St. (Both)
19th St.	at	Cherry St. (Both) (#30-88)
19th St.	at	Madison St. (Both) (#30-88)
19th St.	at	Tyler St. (Both)
19th St.	at	Van Buren St. (Both) (#14-87)
20th St.	at	Harrison St. (Both) (#30-88)
20th St.	at	West Harrison St. (#26-87)
20th St.	at	Madison St. (Both) (#30-88)
20th St.	at	Tyler St. (Both) (#30-88)
20th St.	at	Van Buren St. (Both) (#30-88)

SCHEDULE "A" (CONTINUED)

TWO-WAY STOP INTERSECTIONS (CONTINUED)

THROUGH STREET		STOP STREETS (DIRECTION)
21st St.	at	Adams St. (Both) (#30-88)
21st St.	at	Tyler St. (Both) (#30-97)
21 st St.	at	VanBuren (West Bd.) (#06-03)
22nd St.	at	Harrison St. (West Bd.) (#27-78)
22nd St.	at	W. Poplar St. (East Bd.) (#34-91)
23rd St.	at	Adams St. (West Bd.) (#24-93)
27 th St.	at	Cherry St. (Both) (#35-05)
27th St.	at	Madison St. (Both) (#39-86)
27th St.	at	Old West Herrin (West Bd.) (#1-93)
29th St.	at	Madison St.
29th St.	at	West Oak St. (#7-83)
31st St.	at	W. Monroe St.
31st St.	at	W. Polk St. (Both) (#47-88)
N. 32 nd St.	at	W. Adams St. (Both) (#7-2021)
N. 32 nd St.	at	W. Madison St. (Both) (#7-2021)
32nd St.	at	Tyler St. (Both) (#33-89)
34th St.	at	Monroe St. (Both) (#31-85)
35th St.	at	West Monroe St. (West Bd.) (#14-87)
43rd St.	at	Cherry St. (West Bd.) (#40-96)
Adams St.	at	18th St. (Both)
Adams St.	at	25th St. (Both) (#35-95)
Adams St.	at	26th St. (Both) (#27-84)
Ash St.	at	17th St. (Both) (#27-84)
Benson St.	at	7th St. (North Bd.) (#27-84)
Benson St.	at	13th St. (Both)
Bond St.	at	13th St. (Both)
Brewster Rd.	at	22nd St. (South Bd.) (#21-87)
Brewster Rd.	at	Melody Ln. (South Bd.) (#24A-01)
Brewster Rd.	at	Melody Ln. (South Bd. on west leg) (#14-87)
Brewster Rd.	at	Tangelwood Dr. (South Bd.) (#36-95)
Brewster Rd.	at	Timbercreek Dr. (North Bd.) (#37-95)
East Bryan St.	at	N. 11th St. (Both)
Carroll St.	at	N. 13th St. (Both)
Cherry St.	at	11th St. (South Bd.) (#30-88)
Cherry St.	at	N. 25th St. (North Bd.) (#70-86)
Cherry St.	at	N. 30th St. (Both) (#17-81)
Clark St.	at	S. 14th St. (South Bd.) (#3-90)
Giles St.	at	Weaver Rd. (North Bd.)

SCHEDULE "A" (CONTINUED)

TWO-WAY STOP INTERSECTIONS (CONTINUED)

THROUGH STREET		STOP STREETS (DIRECTION)
Harrison St.	at	10th St. (Both)
Harrison St.	at	17th St. (Both)
Herrin St.	at	12th St. (Both)
Herrin St.	at	14th St. (Both)
Herrin St.	at	16th St. (North Bd.)
Herrin St.	at	17th St. (North Bd.)
Herrin St.	at	18th St. (North Bd.)
Herrin St.	at	20th St. (North Bd.)
Herrin St.	at	21st St. (North Bd.)
Indian Hill Dr.	at	Hilldale Ave. (Both) (#5-2024)
Jesse	at	Lou Ann Dr. (North Bd.) (#48-05)
Madison St.	at	21st St. (Both) (#16-87)
Maple St.	at	10th St. (South Bd.) (#30-88)
Maple St.	at	11th St. (South Bd.) (#30-88)
Maple St.	at	12th St. (Both)
Maple St.	at	14th St. (North Bd.)
Maple St.	at	17th St. (Both)
Maple St.	at	19th St. (Both)
Maple St.	at	S. 31st St. (South Bd.)
W. Maple St.	at	24th St. (#38-82)
McKinley St.	at	N. 8th St. (Both)
Monroe St.	at	8 th St. (Both) (#43-2002)
Monroe St.	at	9 th St. (Both) (#43-2002)
Monroe St.	at	11th St. (North Bd.)
Monroe St.	at	12th St. (Both)
Monroe St.	at	19th St. (Both)
Monroe St.	at	20th St. (Both)
Monroe St.	at	21st St. (South Bd.)
Oak St.	at	17th St. (Both)
Oak St.	at	18th St. (Both)
Oak St.	at	19th St. (Both) (#30-88)
W. Oak St.	at	S. 23rd St. (North Bd.)
Old West Herrin	at	N. 27 th St. (North Bd.) (#1-93)
Park Ave.	at	Adams St. (Both)
Park Ave.	at	Ash St. (Both)
Park Ave.	at	Cedar St. (East Bd.)
Park Ave.	at	Cypress St. (Both)
Park Ave.	at	Ford St. (Both)
Park Ave.	at	Grant St. (Both)
Park Ave.	at	Harrison St. (Both)
Park Ave.	at	Hemlock St. (Both)
Park Ave.	at	Oak St. (Both)
Park Ave.	at	Polk St. (Both)
Park Ave.	at	Taylor St. (Both)

SCHEDULE "A" (CONTINUED)

TWO-WAY STOP INTERSECTIONS (CONTINUED)

<u>THROUGH STREET</u>		<u>STOP STREETS (DIRECTION)</u>
Park Ave.	at	Tyler St. (Both)
Park Ave.	at	Van Buren St. (Both)
Park Ave.	at	Walnut St. (Both)
Pine St.	at	13th St. (North Bd.)
Pine St.	at	14th St. (Both)
Polk St.	at	8th St. (Both) (#8-83)
W. Polk St.	at	N. 30th St. (Both) (#38-81)
Poplar St.	at	11th St. (North Bd.)
Poplar St.	at	12th St. (North Bd.)
Poplar St.	at	12th St. (South Bd.)
Poplar St.	at	22 nd St. (Both) (#28-99)
Poplar St.	at	24th St. (Both) (#51-83)
W. Poplar St.	at	S. 25th St.
W. Poplar St.	at	S. 26th St.
Rushing Dr.	at	Central (Animal) Hospital (#23-95)
Rushing Dr.	at	Tip Rd. (North Bd.) (#14-86)
Rushing Dr.	at	Tip Rd. #2 (North Bd.) (#14-86)
Stotlar St.	at	11th St. (Both)
Stotlar St.	at	12th St. (Both)
Stotlar St.	at	16th St. (Both)
Stotlar St.	at	17th St. (Both)
Stotlar St.	at	19th St. (Both) (#36-87)
Tyler St.	at	21st St. (Both)
Tyler St.	at	26th St. (Both) (#36-89)
Tyler St.	at	27th St. (Both) (#27-84)
Van Buren	at	19th St. (North Bd.)
Walnut St.	at	10th St. (Both) (#30-88)
Walnut St.	at	14th St. (South Bd.)
Walnut St.	at	17th St. (North Bd.) (#30-88)
Walnut St.	at	22 nd St. (Both) (#40-81)
Weaver Rd.	at	Tower Rd. (#05-05)

SCHEDULE "A" (CONTINUED)

THREE-WAY STOP INTERSECTIONS

II.

<u>STOP STREETS (DIRECTION)</u>		<u>STOP STREETS (DIRECTION)</u>
S. 13 th St. (Both)	at	Lyewrla Dr. (West Bd.) (#4-2017)
14 th St. (South Bd.)	at	Cherry St. (Both) (#30-92)
N. 17 th St.	at	W. Cherry (#21-07)
S. 22 nd St. (Both)	at	Poplar St. (East Bd.) (#31-92)
Brewster Rd. (Both)	at	S. 27 th St. (North Bd.) (#30-96)
Deer Run (Both)	at	Fawn Run (South Bd.) (#12-19)
E. Diaz St. (East Bd.)	at	N. 13 th St. (Both) (#30-2023)
Orchard Dr. (East Bd.)	at	Orchard Dr. (Both) (#3-83)
Polk St.	at	10 th St.
State St.	at	Weaver Rd. (#04-05)
Stotlar St.	at	13 th St.
W. Taylor St. (West Bd.)	at	N. 18 th St. (Both) (#8-2020)
Walnut St.	at	13 th St. (South Bd.)
Weaver Rd. (Both)	at	Smith Rd. (West Bd.) (#33-01)
Wilson St. (East Bd.)	at	17 th St. (Both) (#55-04)
Wilson St.	and	Weaver Road (#24-2019)

FOUR-WAY STOP INTERSECTIONS

III.

7 th St.	and	E. Tyler St. (#22-99)
14 th St.	and	Oak St. (#39-06)
N. 16 th St.	and	Tyler St. (#23-14)
N. 17 th St.	and	W. Smith St. (#35-2018)
18 th St.	and	Walnut St. (#33-04)
19 th St.	and	Adams St. (#29-91)
19 th St.	and	W. Tyler St. (#35-91)
35 th St.	and	W. Cherry St. (#36-91)
Adams St.	and	N. 11 th St. (#11-97)
Adams St.	and	14 th St. (#44-86)
Adams St.	and	16 th St.
Adams St.	and	17 th St.
Adams St.	and	18 th St. (#36-87)
Adams St.	and	20 th St. (#3-87)
W. Adams St.	and	30 th St.
Ash St.	and	14 th St.
Bond St.	and	4 th St. (#10-19)
Bond St.	and	8 th St. (#60-90)
Carroll St.	and	N. 14 th St. (#32-2016)
Cherry St.	and	19 th St.
Cherry St.	and	29 th St.
Chittyville Rd.	and	13 th St. (#45-95)
Clark Trail	and	17 th St. (South Bd.) (#43-83)
Clark Trail	and	22 nd St.
Ford St.	and	12 th St.
Grant St.	and	16 th St.

SCHEDULE "A" (CONTINUED)

FOUR-WAY STOP INTERSECTIONS

Harrison St.	and	13 th St. (#29-05)
Harrison St.	and	14 th St. (#23-09)
Harrison St.	and	16th St.
Harrison St.	and	19th St. (#32-85)
Harrison St.	and	22nd St.
Herrin St.	and	11th St.
Herrin St.	and	13th St.
Kane Dr.	and	Clark Trail (#43-83)
Madison St.	and	9 th St. (#13-19)
Madison St.	and	14th St. (#59-88)
Madison St.	and	16th St.
Madison St.	and	17th St.
Madison St.	and	18th St.
Madison St.	and	19th St.
Madison St.	and	N. 21st St. (#16-87)
Maple St.	and	8th St.
Maple St.	and	16th St.
Maple St.	and	18th St.
Maple St.	and	20th St. (#8-88)
Melody Lane	and	Clark Trail (#43-83)
Melody Lane	and	Wye--South of Clark Trail (#43-83)
Miller Dr. (End of)	and	S. 22nd St. (#43-83)
Monroe St.	and	10th St.
Monroe St.	and	13th St.
Monroe St.	and	14th St.
Monroe St.	and	16th St.
Monroe St.	and	17th St.
Monroe St.	and	18th St.
Monroe St.	and	N. 27th St.
W. Monroe St.	and	29th St.
Oak St.	and	13 th St. (#35-2011)
Oak St.	and	S. 19th St. (#17-87)
Old Colp Highway	and	27th St. (North) (#43-83)
Orchard Dr.	and	Grant St. (#4-83)
Park Lane	and	Clark Trail
Pershing Road	and	13th St. (#63-90)
Polk St.	and	11th St.
Polk St.	and	13th St.
Polk St.	and	16th St. (#17-87)
Polk St.	and	17th St.
Poplar St.	and	5th St. (#30-83)
Poplar St.	and	13th St. (#57-90)

SCHEDULE "A" (CONTINUED)

FOUR-WAY STOP INTERSECTIONS (CONTINUED)

Poplar St.	and	14th St. (#45-89)
Poplar St.	and	16th St. (#37-83)
Poplar St.	and	18th St.
Tyler (Federal Housing)	and	18th St.
Van Buren St.	and	6th St.
Van Buren St.	and	10th St.
Van Buren St.	and	11th St. (#25-90)
Van Buren St.	and	16th St.
Van Buren St.	and	17th St.
Van Buren St.	and	18th St.
Van Buren St.	and	20th St. (#30-83)
Walnut St.	and	19th St. (#8-94)
Wyatt Dr.	and	Clark Trail (#43-83)

IV.

ONE-WAY STOP INTERSECTIONS

THROUGH STREET

STOP STREET

N. 14 th St.	Hill St. (#23-2016)
College St.	McVicker Dr. (#31-2011)
Lyerla St.	9 th St. (South Bd.) (#7-2011)

V.

TRAFFIC LIGHTS

In accordance with Section 24-3-3 the following streets shall be designated Traffic Light locations:

Park Ave. (Rt. 148)	at	Cherry St. (#25-71)
Park Ave. (Rt. 148)	at	Herrin St. (#25-71)
Park Ave. (Rt. 148)	at	Madison St. (#25-71)
Park Ave. (Rt. 148)	at	Maple St. (#25-71)
Park Ave. (Rt. 148)	at	Monroe St. (#25-71)
Park Ave. (Rt. 148)	at	Poplar St. (#25-71)
Park Ave. (Rt. 148)	at	Stotlar Rd. (#25-71)

SCHEDULE "B"

ONE-WAY STREETS AND ALLEYS

In accordance with the provisions of Section 24-2-2, the following streets and alleys are designated as "One-Way Streets and Alleys" as indicated below:

I. STREETS (PERMANENT):

STREET - DIRECTION		LOCATION
7th St. (North Bd.)	Between	Herrin St. and Bryan St.
10th St. (North Bd.)	Between	Tyler St. and Van Buren St. from 7:30 A.M. until 3:30 P.M. Monday through Friday during the school year. (#29-93)
14th St. (North Bd.)	Between	Stotlar St. and Ash St. from 7:30 A.M. until 3:30 P.M. Monday through Friday during the school year. (#29-93)
14th St. (North Bd.)	Between	Ash St. and Poplar St. from 7:30 A.M. until 3:30 P.M. Monday through Friday during the school year. (#6-95)
N. 18 th St. (Both)	From	W. Tyler St. to W. Polk St. (#11-19)
N. 19 th St. (North Bd.)	Between	W. Cherry St. to W. Monroe St. (#4-2018)
Ash St. (East Bd.)	Between	S. 13th St. and S. 14th St. from 7:30 A.M. until 3:30 P.M., Monday through Friday during the school year. (#17-82)
W. Van Buren St. (Both)	From	N. 18 th St. to N. 19 th St. (both during school hours when children are present) (#11-19)
Walnut St. (East Bd.)	Between	Park Ave. and 14th St.

II. STREETS (From 7:00 A.M. to 3:30 P.M. on School Days When Students are Present):

STREET - DIRECTION		LOCATION
17 th St. (South Bd.)	Between	Polk St. to Tyler St. (#36-2000)
18 th St. (North Bd.)	Between	Tyler St. to Polk St. (#36-2000)
N. 18 th St. (North Bd.)	Between	W. Cherry St. and W. Monroe St. (#1-2011)
W. Cherry St. (West Bd.)	Between	N. 17 th and N. 18 th (#1-2011)
W. Cherry St. (North Bd.)	Between	N. 18 th St. and N. 19 th St. (#4-2018)
Polk St. (East Bd.)	Between	18 th St. to 17 th St. (#36-2000)

III. ALLEYS:

- The alley extending from E. Monroe St. to E. Madison St. between N. Park Ave. and N. 14th St. shall be Northbound Only!
- The alley extending from W. Madison St. to W. Adams St. between N. Park Ave. and N. 16th St. shall be Northbound Only!
- The alley located between N. 14th St. and N. 15th St. (Park Ave.) in the 200 block in the City shall be Northbound Only!
- The alley between E. Harrison and E. Maple Streets and separating the 200 block of S. 14th St. and S. Park Ave. shall be Southbound Only!

SCHEDULE "D"

SPEED LIMITS

I. **SPEED LIMITS.** In accordance with the provisions of Section 24-4-2, these streets and alleys are hereby designated to have the following speed limits:

15 MILES PER HOUR:

E. Grant and S. 18th St.		North and South (#3-64)
W. Monroe and N. 19th St.		East and West (#3-64)
W. Monroe and N. 27th St.		East and West (#3-64)
W. Monroe and N. 29th St.		East and West (#3-64)
Orchard Dr. and W. Grant Park Ln. and George St.		North and South (#3-64)
Park Ln. and Hilldale		North and South (#3-64)
Park Ln. and Woodland		North and South (#3-64)
E. Poplar and S. 14th St.		East and West (#3-64)
E. Stotlar and S. 13th St.		South and West (#3-64)

25 MILES PER HOUR:

N. 21 st St.	From	Monroe to Herrin St. (#3-06)
S. 22nd St.	From	W. Grant St. to City Limits (#19-82)
S. 22nd St.	From	Monroe St. to Brewster Dr. (#32-96)
W. Brewster Rd.		Entire Road (#58-90)
W. Cherry St.	From	30th St. to 43rd St. (#25-96)
Landfill Road	From	E. Stotlar St. to College St. (#2-93)
Rushing Dr.	From	Rte. 148 to Briggs and Fleming (#39-96)
Stotlar St.	From	S. 13th St. East to Circle Dr. (#41-81)
Weaver Road	From	Herrin St. to Sewer Plant Rd. (#23-93)

30 MILES PER HOUR:

Chittyville Road	Near	Chittyville School (#56-04)
Eden Park Dr.		Entire Length (#49-92)
Herrin St.	From	N. 8th St. to Park Ave.
Herrin St.	From	Park Ave. West to 21st St. (#1-82)
Herrin St.	From	E. City Limits to 6th St. (#20-84)
Sycamore St.	From	S. 27 th St. to Hafer Rd. (#40-97)

35 MILES PER HOUR:

Bandyville Road	From	Stotlar St. south to Clark Trail (#1-04)
Stotlar St.	From	6th St. to the City Limits
Stotlar St.	From	Circle Dr. east to City Limits (#41-81)

40 MILES PER HOUR:

E. Herrin St.	From	N. 5th St. to N. 8th St.
Landfill Road	From	E. Stotlar St. to College St. (#39-91)

45 MILES PER HOUR:

Bandyville Road	From	Clark Trail south to College St. (#1-04)
Herrin St.	From	21st St. West to City Limits (#1-82)

II. **SPEED LIMITS – SCHOOL DAYS.** In accordance with Section 24-3-2 of this Code, the following school speed limit zones are established:

E. Stotlar St.	From	6th St. to 13th St. shall be 20 miles per hour.
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MV-10

SCHEDULE "E"

NO PARKING

In accordance with the provisions of Section 24-6-4 of this Code, the following streets are hereby designated as "No Parking Streets".

STREET - SIDE	LOCATION
State Rt. 148 (Park) (Both)	From Carterville Rd. to Rte. 13 (#26-01)
N. 5 th St. (Both)	From Herrin St. to Bond St. (#10-2000)
N. 7 th St. (Both)	From E. Herrin St. to E. Bryan St.
9 th St.	From the South Corner of Polk and 9 th , one side, 35 feet back. (#71-86; 10-13-86)
9 th St. (Both)	From Harrison to Maple St.
9 th St. (Both)	From Maple St. to I.C.R.R. Tracks
9 th St. (Both)	In the 600 block on the South Corner of both sides of the North end, all signs will be placed back 35 feet. (#71-86; 10-13-86)
9 th St. (East Bd.)	In the 700 block (#71-86; 10-13-86)
9 th St. (East Bd.)	From Monroe St. to E. Polk St.
10 th St.	On the North end 35 feet back. (#71-86; 10-13-86)
10 th St. (Both)	In the 600 block on the South Corner of both sides, and the North end, all signs will be placed back 35 feet. (#71-86; 10-13-86)
10 th St. (Both)	From Harrison to Maple St.
N. 10 th St. (West)	200 Block (#30-14)
11 th St. (Both)	From Harrison to Maple St.
11 th St. (Both)	In the 600 block on the South Corner of both sides, and the North end, all signs will be placed back 35 feet. (#71-86)
11 th St. (East)	In the 900 block. (#46-88)
11 th St. (West Bd.)	In the 500 block (#40-87; 11-23-87)
11 th St. and Polk St. (Both)	In the 700 block area, 35 feet back. (#71-86)
13 th St. (Both)	From Freeman Spur Rd. to East Clark Trail (#19-05)
13 th St. (East Bd.)	From 1,000 block (#56-86)
14 th St. (West Bd.)	From Harrison to Maple St.
14 th St. (West Bd.)	From East Maple St. to East Oak St.
14 th St. (West Bd.)	From Between Poplar St. to Ash St. (#5-95)
N. 14 th St.	West side of 300 Block (#33-05)
S. 14 th St. (East side)	100' north of E. Ford St. (#29-2015)
S. 16 th St. (Both)	From 1400 Block (#25-06)
16 th St. (Both)	From W. Herrin St. to W. Stotlar St.
N. 17 th St. (Both)	From Monroe St. to Cherry St. (#29-01)
S. 17 th St. (East Bd.)	In the 100 block on the East side of the street behind the Civic Center (#41-07)
N. 18 th St. (West Bd.)	From Monroe St. to Cherry St. (#29-01)
N. 19 th St. (Both)	From W. Cherry St. to W. Monroe St. (#4-2018)
N. 21 st St. (Both)	From Van Buren to Herrin St. (#4-06)
N. 26 th St. (West side of south ½)	From Madison St. to Adams St. (#54-99)
S. 27 th St. (Both)	100' north of Oak St. (#34-2015)
29 th St. (Both)	From W. Herrin St. to W. Monroe St.

SCHEDULE "E" (CONTINUED)

NO PARKING (CONTINUED)

STREET - SIDE		LOCATION
Ash St. (South)	In	the 200 block between 13 th & 14 th St. (#46-2003)
Ash St. (North)	From	the alley to 11th St.
Bond St. (South)	From	the alley east of 13th St. to the end of Bond St. (#7-88)
E. Bond St. (Both)	From	5 th St. to Summer Dr. (#3-2016)
E. Bryan St. (Both)	Between	N. 7 th St. and N. 8 th St. (#27-2016)
Carrol St. (North)	In	the 200 block from 13th St. to the west alley. (#52-88)
Carrol St. (Both)	From	150 feet east and west of Ed King's driveway (#38-01)
Clark Trail (Both)	From	S. Park Ave. to Park Lane (#3-82)
Diaz St. (Both)	From	N. Park Ave. east 100 feet (#9-96)
Harrison St. (North)	Between	14 th St. and the alley to the east (#32-04)
Harrison St. (Both)	From	13 th St. to 16 th St. (#28-05)
Herrin St. (South)	From	5th St. to 6th St.
Kane Dr. (Both)	Between	17 th St. and Wyatt Dr. (#11-04)
Legacy Dr.	From	Montebello Dr. east approximately one block thence south on Legacy Dr. approximately one half block (#24-14)
Lyerla Dr. (Both)	From	8th St. to 12th St. (#23-81)
Madison St. (Both)	From	N. Park Ave. to 16th St.
Madison St.		Between the blocks of 19 th & 20 th Street, 10 feet on either side of the alley entrance (#33-2003)
Monroe St. (Both)		1000, 1100 and 1200 blocks (#14-09)
E. Monroe St. (South)	From	100 Block from the corner to the alley (#4-2002)
W. Monroe St. (North)	From	905 W. Monroe St. (#53-99)
W. Monroe St. (North)	From	N. 18 th St. to N. 19 th St. (During School Hours) (#4-2018)
Oak St. (Both)	From	S. 22nd St. to S. 27th St.
W. Oak St. (Both)		100' west (#34-2015)
Park Ave. (Both)	From	Station 316+50 to Station 302.0 (#42-89)
Park Ave. (Both)	From	Station 297+00 to Station 302+J00 (#8-92)
Park Ave. (East)	From	Bank Exit to Harrison St. (#4-94)
Park Ave. (West)	From	Oak St. north 50 feet (#75-86)
Polk St. (Both)	And	11th St. in the 700 block area, 35 feet back. (#71-86)
Polk St. (North)	From	Alley to 17 th St. (#28-01)
Polk St. (Both)	From	N. Park Ave. to 15 th St.
Polk (South Corner)	From	9th St., one side, 35 feet back (#71-86)
Poplar St. (Both)	From	S. 13th St. to S. 9th St.
Poplar St. (North)	From	Park Ave. to the back alley (#59-90)
Stotlar St. (Both)	From	S. Park Ave. to 17th St.
Stotlar St. (North)	From	S. Park Ave. to S. 14th St.
Van Buren St. (Both)	From	15th St. to 9th St.
Walnut St.	From	S. 14th St. to S. 13th St. (East of the alley in said block and west of the service station driveway, except for buses owned by the Williamson County Programs on Aging.
Walnut St. (South)	Between	17 th St. and 18 th St. (#22-08)
Bocce Court (North)		By curb cut-out (Handicapped Parking) (#2208)
City Parking Lot East of the Bocce Court - No Semi Parking		(#22-08)

SCHEDULE "F"

LIMITED PARKING

In accordance with the provisions of Section 24-6-4 of this Code, the following streets are hereby designated as "Limited Parking" streets as provided:

General:

"No Parking Between Signs" at driveways in the 1000, 1100, and 1200 Block of North 7th Street providing 6 foot clearance on each side. **(Ord. No. 48-90)**

From 2:00 A.M. to 6:00 A.M. on Tuesday and Friday:

Park Ave. between Maple St. on the South and Herrin St. on the North.
14th St. between Maple St. on the South and Adams St. on the North.
16th St. between W. Harrison St. on the South and Adams St. on the North.
Cherry St. between 14th St. on the East and 16th St. on the West.
Madison St. between 14th St. on the East and 16th St. on the West.
Monroe St. between 13th St. on the East and 17th St. on the West.
Walnut St. between 14th St. on the East and 16th St. on the West.

15-Minute Parking Between 9:00 A.M. and 6:00 P.M.:

16th Street, 100 block, East Side.

From 5:00 A.M. to 7:00 P.M.:

E. Maple St. between S. Park and S. 13th St., South Side.

From 5:00 A.M. to 7:00 P.M., except Sundays and Holidays:

E. Maple St. between S. Park Ave. and S. 13th St., North Side.

From 9:00 A.M. to 5:00 P.M. (Monday through Friday):

E. Oak St. (North Side) 100 Block **(#13-2002)**
S. 14th St. (East Side) 400 Block **(#13-2002)**

From 10:00 A.M. to 4:00 P.M., - Monday through Friday:

E. Monroe St. (South Side) – 100 Block **(#29-2002)**

Two-Hour Limit:

N. 11th St., 100 block, Both sides **(#7-77)**
West side of Park Ave. from Tyler St. to W. Maple St. **(#25-81)**
East side of Park Ave. from Tyler St. to E. Maple St. **(#25-81)**
East side of Park Ave. from Cypress St. to Lyerla St. for trucks exceeding 16,000 pounds. **(#13-05)**
West side of 16th St. from Madison ST. to W. Harrison St. **(#25-81)**
East side of 14th St. from E. Adams St. to E. Harrison St. **(#25-81)**
West side of N. 14th St. from E. Cherry St. to the Illinois Central Railroad. **(#25-81)**
South side of Walnut St. from S. 14th St. to S. 16th St. **(#25-81)**
North side of W. Walnut St. from S. Park Ave. to S. 16th St. **(#25-81)**

SCHEDULE "F" (CONTINUED)

LIMITED PARKING (CONTINUED)

Two-Hour Limit:

South side of Cherry St. from N. 14th St. to N. 16th St. **(#25-81)**

North side of Cherry St. from N. 13th St. to N. 16th St. **(#25-81)**

South side of Monroe St. from N. 14th St. to N. 17th St. **(#25-81)**

North side of Monroe St. from N. 13th St. to N. 17th St. **(#25-81)**

North side of Madison St. from N. 13th St. to N. 16th St. **(#25-81)**

South side of Madison St. from N. 13th St. to N. 14th St. and from N. Park Ave. to N. 16th St.
(#25-81)

Two Hour Limit (In any Three-Hour Period):

S. 12th St., 600 block, both sides.

Eight Hour Limit:

All public parking lots owned or controlled by the City of Herrin. **(#25-81)**

Street Closure:

No Parking Between Signs:

In the 800 Block of S. 12th St. **(#31-2016)**

SCHEDULE "G"

RESIDENTIAL PARKING ZONE

In accordance with Section 24-6-12, the following are hereby designated as "Residential Parking Zones" and parking is restricted to the residents of that street:

STREET (SIDE)	LOCATION
N. 7th St. (West)	from the 900 block to the 1200 block. (#8-91)
N. 9th St. (Both)	in the 500 block. (#42-90)
N. 9th St. (Both)	in the 600 block. (#20-90)
N. 10 th St. (East)	in the 200 block. (#5-19)
N. 10th St. (West)	in the 500 block. (#8-91)
N. 10th St. (Both)	in the 600 block. (#20-90)
N. 11th St. (East)	in the 500 block. (#4-88)
N. 11th St. (West)	in the 600 block. (#13-90)
N. 11th St. (West)	in the 700 block. (#24-89)
N. 11 th St. (Both)	in the 900 block. (#17-2000)
N. 12th St. (Both)	in the 700 and 800 block. (#24-89)
W. Maple St. (North)	in the 100 block. (#43-90)
E. Stotlar St. (Both)	between Park Ave. and 14th St. (#44-90)
W. Stotlar St. (North)	in the 300 block. (#43-90)
Taylor St. (South)	in the 400 block. (#12-90)
Bryan St. (North)	the east one-half street from alley to 7th St. (#19-91)

SCHEDULE "J"

LOAD LIMITS

In accordance with the provisions of Section 24-6-6, the "Load Limits" for the City Streets shall be as follows:

16,000 LBS. GROSS WEIGHT LIMIT STREETS

LAWFUL TRUCK ROUTES DESIGNATED:

E. Herrin St.
Park Ave.
Monroe St.
Van Buren St. between N. Park Ave. and the western most boundary of the Christopher Industry property, Herrin, Illinois.
E. Maple St. between S. Park Ave. and 8th St.
Stotlar St. between 11th St. and East City limits.
11th St. from Stotlar St. to Poplar St.
Poplar St. - Park Ave. to Norge Entrance.
27th St. between W. Monroe St. and W. Oak St.
W. Herrin St.
W. Oak St. between 27th St. and corporate limits (**#11-90**)

20,000 LBS. GROSS WEIGHT LIMIT STREETS

UNLAWFUL ROUTES ESTABLISHED:

13th St.	From	North to South
16th St.	From	W. Herrin St. to W. Stotlar St.

SCHEDULE "K"

SNOW ROUTES

In accordance with Section 24-6-10, the following are hereby designated as Snow Emergency Routes. **[Unless Otherwise Noted, this Schedule #49-78; 12-26-78]**

Park Ave.
North and South 13th St.
North and South 16th St.
Polk St. from 18th St. to 8th St.
29th St. from W. Herrin to Monroe St.
27th St. from Monroe to Harrison St.
Oak St. west from Park Ave. to the corporate limits.
West and East Adams from 16th to 13th Sts.
West and East Cherry from 16th to 14th Sts.
West and East Harrison from 16th to 13th Sts.
West and East Walnut from 16th to 13th Sts.
Lyerla Dr. (E. Maple) from Park Ave. to N. 8th St.
E. Ash from Park Ave. to 13th St.
E. Stotlar from Park Ave. to 14th St.
W. Stotlar from Park Ave. to 18th St.
S. 14th from Ash to Ford.
E. Ford from 14th to 13th Sts.
Clark Trail from Park Ave. to 13th St.
Clark Trail from Park Ave. west to 17th St.
Monroe St. from 8th St. west to 29th St.
12th St. from Herrin to Maple.
S. 9th St. from Stotlar to Walnut.
N. 9th St. from Cherry to Polk.

CHAPTER 25 - NUISANCES

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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, or 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.

(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.

(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.

(Z) **Discarded Machinery or Materials.** To store, keep or maintain outside of a closed building the following: (1) used appliances, used or dilapidated furniture, bathroom fixtures, tires, old iron or metal, motor vehicle parts and all other parts, tools, machinery, and equipment in inoperable condition, for longer than a two-week time period; or, (2) used lumber, bricks, blocks, or other building salvage or construction material, unless such material is intended for reuse and arranged in an orderly fashion.

(AA) **Unhealthful Businesses.** No substance, matter or thing of any kind whatever, which shall be dangerous or detrimental to health, shall be allowed to exist in connection with any

business, or be used therein, or be used in any work or labor performed in the City, and no nuisance shall be permitted to exist in connection with any such work or labor.

(BB) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(740 ILCS 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this City from declaring what shall be nuisances, and abating them within the City limits.

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the City if such use, keeping or maintaining shall be dangerous or detrimental to health.

25-1-3 NOTICE TO ABATE. Whenever the Superintendent, Mayor or Police Chief finds that a nuisance exists, he shall direct the City Clerk to mail (certified) to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) The date by which abatement must be completed;
- (E) The date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (F) A statement that the responsible party has a right to appeal the abatement order to the City Council.
- (G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this City will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-4 HEARING. Any person ordered to abate a nuisance may have a hearing with the Police Chief or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the City Clerk within the time stated in the notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Police Chief or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

25-1-5 APPEAL. Any party aggrieved by the decision of the Police Chief may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the City Council at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

25-1-6 ABATEMENT BY CITY. If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this City may perform the required action to abate. Any City official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the City Clerk who shall pay such expenses on behalf of this City. **(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.

(65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)

[See Section 1-1-20 for General Penalty]

ARTICLE II - WEEDS

25-2-1 **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** anywhere in the City. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **seventeen (17) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within **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.

25-2-6 **LIEN.** Charges for such weed or grass 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.

25-2-7 **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.

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City after the lien is in effect for **sixty (60) days**.

(65 ILCS 5/11-20-6 and 5/11-20-7)

[See Section 1-1-20 for General Penalty]

ARTICLE III – GARBAGE, TRASH AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit garbage, trash or debris to accumulate upon or about their property. This prohibition includes an occupant of property that is owned by another person.

25-3-2 **NOTICE TO PERSON.** The Mayor, Chief of Police, Code Inspector, or any employee or designated representative of the City may issue written notice for the removal of garbage, trash, or debris. Such garbage, trash, or debris shall be removed by the owner or occupant within **seven (7) days** from the date of notice.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the notice to the owner, occupant, or any member of the household of the age of **fifteen (15) years** or older, found on the premises, or by mailing such notice to the last known address of the owner, or by tagging any large item of garbage, trash or debris as further described in **Section 25-3-10** of this Code. In the event the owner's address cannot be obtained, and the premises are unoccupied, notice may also be given by posting the property. In the event the premises are used as a business, service may be obtained by handing the notice to any employee or agent of the business owner.

25-3-4 **FAILURE TO COMPLY WITH NOTICE.** If the owner or occupant fails to comply with the requirements specified in the notice within **seven (7) days** of the date of notice, the City may disconnect the water service to the premises, and post the premises "Occupancy Prohibited".

Prior to disconnection of the water service, the owner shall be given a second notice which complies with the service requirements set forth in **Section 25-3-3**, advising that the water will be disconnected on the **seventh (7th) day** following the notice should the garbage, trash, and debris not be removed.

25-3-5 REMOVAL OF GARBAGE, TRASH, DEBRIS. Upon the failure, neglect or refusal of any owner or occupant to properly dispose of garbage, trash and debris after written notice is provided, the Code Inspector and Department of Public Works are hereby granted the authority to authorize the removal and disposal of the garbage, trash and debris by persons working under the direction of the City.

25-3-6 LIEN. In addition to imposition of fees as provided in **Section 25-3-10**, all costs incurred for the removal of the garbage, trash and debris by the City shall be forwarded to the owner of the property for payment. In the event the bill is not paid within **thirty (30) days** of the date of the bill, a notice of lien for the costs and expenses incurred by the City shall be recorded in the Office of the Recorder for Williamson County, Illinois. The notice of lien shall include the following:

- (A) A description of the property sufficient for identification.
 - (B) The amount of the cost and expense incurred by the City for removing the garbage, trash and debris.
 - (C) The date or dates the costs were incurred by the City.
- All liens shall be filed within **sixty (60) days** of the date the costs were incurred.

25-3-7 PAYMENT. Notice of the lien shall be mailed to the owner of the premises at his last known address, or to the person or entity which appear on the tax records in the Williamson County Assessor's Office. Upon payment of the costs and expense incurred after the filing of the lien, and costs of recording the lien and release of lien, the lien shall be released by the City by filing a release in the same as the lien.

25-3-8 FORECLOSURE. Property subject to a lien for unpaid charges may be subject to foreclosure in the manner provided by law. Such foreclosure shall be in the name of the City.

25-3-9 DEFINITION. The words "garbage", "trash", and "debris" shall be given their common dictionary meaning, and shall include broken toys, lawn mowers, other yard equipment, and household furnishings of any nature.

25-3-10 LARGE ITEMS OF GARBAGE, TRASH OR DEBRIS. In addition to the remedies available to the City as provided in **Sections 25-3-1** through **25-3-9** herein, the City in its discretion may opt to handle large items of garbage, trash or debris that are too large for City garbage trucks to pick up on their usual routes as follows:

- (A) Any City employee may tag or mark any large item that appears to be garbage, trash or debris with a notice advising the water department customer at the location of said large item of garbage, trash or debris that each tagged item must be removed within **seven (7) days** to avoid disposal and additional fees from the City.
- (B) Upon expiration of the **seven (7) day** period described in subsection (A) herein, any City employee may remove and dispose of such tagged large item(s) of garbage, trash or debris. The fees for removal of such large item(s) shall be **Forty Dollars (\$40.00)** for the first large item and **Ten Dollars (\$10.00)** for each additional large item removed by the City on any individual trip. In addition, if a resident places items out on the curb with their trash, the **seven (7) day** period is

considered waived and the City will pick it up on regular trash day for the following fee: **Fifteen Dollars (\$15.00)** per item. **(Ord. No. 33-2016; 10-24-16)**

(C) All fees levied by the City pursuant to subsection (B) herein shall be billed to the customer responsible for the Herrin Water Department's monthly bill at the location of the tagged large items of garbage, trash or debris, including any large items collected from multi-family residential housing units. Said fees will be added to the monthly water bill, and non-payment or untimely payment of such fees may lead to termination of water service as otherwise provided in this Code.

(65 ILCS 5/11-20-13)

(Ord. No. 5-2015; 02-23-15)

[See Section 1-1-20 for General Penalty]

ARTICLE IV – RAT CONTROL

25-4-1 **RATS PROHIBITED.** Every owner of any industrial or commercial building, multiple-family dwelling, or other residence within this municipality shall maintain such premises in a rat-free condition.

(A) No person shall permit to accumulate on his premises any garbage which might serve as a food source for rats.

(B) No person shall permit to accumulate on his premises any lumber, boxes, barrels, bricks, or similar materials which might afford harborage to rats unless these materials are evenly stacked on racks elevated not less than **five (5) inches** above the ground.

(C) The infestation of property by rats is hereby declared a nuisance which shall be abated in the manner prescribed by State law and Article I of this Chapter.

ARTICLE V - INOPERABLE MOTOR VEHICLE

25-5-1 **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.

25-5-2 **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.

25-5-3 **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.

25-5-4 **EXCLUSIONS.** Nothing in this Article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

(65 ILCS 5/11-40-3)

[See Section 1-1-20 for General Penalty]

ARTICLE VI - DANGEROUS AND UNSAFE PROPERTIES

25-6-1 **ADOPTION BY REFERENCE.** The City may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the City and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those building. Therefor, the City does hereby adopt by reference the applicable provisions of **Chapter 65 of the Illinois Compiled Statutes, Sections 5/11-31-1 and 5/11-31-1.1** governing dangerous and unsafe buildings.

[See Section 1-1-20 for General Penalty]

ARTICLE VII - PENALTIES AND SPECIAL ASSESSMENT

25-7-1 **SPECIAL ASSESSMENT.** In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under this Chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement; (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in **Chapter 65 of the Illinois Compiled Statutes, Section 5/11-31-1.1 et seq.**, and (iv) a lien has been filed of record by the municipality in the office of the Recorder of Deeds in the county in which the property is located, then those costs may be collected as a special assessment on the property pursuant to **65 ILCS 5/9-2-4.5**. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

[See Section 1-1-20 for General Penalty]

CITY OF HERRIN

NUISANCE VIOLATION NOTICE

TO: _____

You are hereby notified that the Police Chief or his representatives has determined that the property owned by you (and/or occupied by you, as the case may be) located at _____ located within the Municipality contains an unlawful nuisance(s) as defined by **Section 25-1-1** of the Revised Code of Ordinances as follows:

You are required pursuant to **Section 25-1-3** to abate and remove any nuisance(s) within **five (5) days** from the date of this notice as follows:

If you wish to appeal this notice, then the appeal shall be made to the City Hall by: _____.

If the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, the Police Chief 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 and Chapter 1.**

Dated this _____ day of _____, _____.

CODE ENFORCEMENT
CITY OF HERRIN

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 HERRIN

NOTICE

UNLAWFUL WEED GROWTH

TO: _____

You are hereby notified that _____
has determined that property owned by you (and/or occupied by you, as the case may
be) at _____, located within the City
Limits contains unlawful weed growth as defined by **Chapter 25** of the Revised Code
of Ordinances.

You are required to remove all growth within **five (5) days** from the date of this
Notice.

If you refuse or neglect to remove such growth, the authorities of this
Municipality may provide for the removal thereof. The cost of such growth removal
shall be paid by you.

CODE ENFORCEMENT
CITY OF HERRIN

Dated this _____ day of _____, 20____.

CITY OF HERRIN

NOTICE

UNLAWFUL GARBAGE AND/OR DEBRIS

TO: _____

You are hereby notified that the _____

_____ has determined that property owned by you (and/or occupied by you, as the

case may be) located at _____,

located within the City Limits contains garbage and/or debris as defined by **Chapter 25, Article III**, of the Revised Code of Ordinances.

You are required to remove all such material within **five (5) days** from the date of this Notice.

If you refuse or neglect to remove such garbage and/or debris, the corporate authorities of this Municipality may provide for the removal thereof. The cost of the garbage and/or debris removal shall be paid by you.

CODE ENFORCEMENT
CITY OF HERRIN

Dated this _____ day of _____, 20_____.

CITY OF HERRIN

NOTICE

INOPERABLE VEHICLE

TO: _____

You are hereby notified that the Police Department has determined that an "inoperable vehicle(s)" owned by you (and/or stored by you, as the case may be) located at _____, located within the Corporate Limits of this Municipality contains an inoperable vehicle(s), as defined by **Chapter 25, Article IV**, of the Revised Code of Ordinances.

You are required to abate and remove any and all inoperable vehicles within **seven (7) days** from the date of this Notice.

If you wish to appeal said notice, then the appeal shall be made to the Corporate Authorities within **five (5) days** of this Notice.

If you refuse or neglect to remove and dispose of the specified inoperable vehicle(s), the Health Officer or Police Chief of this Municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

CODE ENFORCEMENT
CITY OF HERRIN

Dated this _____ day of _____, 20_____.

CITY OF HERRIN
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 Herrin, 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 _____, 20_____.

CODE ENFORCEMENT
CITY OF HERRIN

(SEAL)

CHAPTER 27 - OFFENSES

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CHAPTER 27

OFFENSES

ARTICLE I – DEFINITIONS

27-1-1 **MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-22**, as approved, adopted and amended are hereby adopted by the City, as fully as if set out herein. **(65 ILCS 5/1-3-2)**

27-1-2 **CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City; the provisions thereof shall be controlling within the corporate limits of the City; provided, however, the penalties as provided by this Code shall apply. **(65 ILCS 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 **DISTURBING POLICE OFFICER.** No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the City owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not constitute a crime unless the language is directed at the officer and provokes a breach of the peace. **(65 ILCS 5/11-1-1)**

27-2-2 **IMPERSONATION OF OFFICER.** No person in the City shall falsely represent himself to be an officer of the City or shall, without being duly authorized by the City, exercise or attempt to exercise any of the duties, functions or powers of the City officer, or hinder, obstruct, resist or otherwise interfere with any City officer in the discharge of the duties of his office. **(65 ILCS 5/11-1-1)**

27-2-3 **DISTURBING 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. **(65 ILCS 5/11-5-2)**

27-2-4 **MOB ACTION.** A person commits mob action when he or she engages in any of the following:

- (A) the knowing or reckless use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law;
- (B) the knowing assembly of **two (2)** or more persons with the intent to commit or facilitate the commission of a felony or misdemeanor; or
- (C) the knowing assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(720 ILCS 5/25-1)

27-2-5 **LOOTING BY INDIVIDUALS.** A person commits looting when he or she knowingly without authority of law or the owner enters any home or dwelling or upon any premises of another, or enters any commercial, mercantile, business, or industrial building, plant, or establishment, in which normal security of property is not present by virtue of a hurricane, fire, or vis major of any kind or by virtue of a riot, mob, or other human agency, and obtains or exerts control over property of the owner. **(720 ILCS 5/25-4)**

27-2-6 **DISTURBING THE PEACE.** No person shall disturb the peace of any individual or private family, or of any lawful congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(65 ILCS 5/11-5-2)**

27-2-7 **ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-8 **SALE OF CIGARETTES OR TOBACCO TO MINORS.**
 (A) No person under **twenty-one (21)** years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any person under **twenty-one (21) years of age.**

(B) No minor under **sixteen (16) years of age** may sell any tobacco product at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(C) No person under **twenty-one (21) years of age** in the furtherance or facilitation of obtaining any tobacco product shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(D) No person under **twenty-one (21) years of age** shall possess any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms.

(E) A person shall not distribute without charge samples of any tobacco product to any other person, regardless of age:

- (1) within a retail establishment selling tobacco products, unless the retailer has verified the purchaser's age with a government issued identification;
- (2) from a lunch wagon; or
- (3) on a public way as a promotion or advertisement of a tobacco manufacturer or tobacco product.

This subsection (E) does not apply to the distribution of a tobacco product sample in any adult-only facility.

(F) Tobacco products listed in this Section may be sold through a vending machine only if such tobacco products are not placed together with any non-tobacco product, other than matches, in the vending machine and the vending machine is in any of the following locations:

- (1) places to which persons under **twenty-one (21) years of age** are not permitted access.
- (2) places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.
- (3) places where the vending machine can only be operated by the owner or an employee over age **twenty-one (21)** either directly or through a remote control device if the device is inaccessible to all customers.

(G) The sale or distribution by any person of a tobacco product in this Section, including but not limited to a single or loose cigarette, that is not contained within a sealed container,

pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited.

(See 720 ILCS 675/1)

27-2-9 **SMOKELESS TOBACCO.**

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).**
No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. **(720 ILCS 680-1 et seq.)**

27-2-10 **UNLAWFUL CONDUCT ON A PUBLIC WAY.**

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-11 **AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(720 ILCS 5/31-7)**

27-2-12 **ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(720 ILCS 5/31-6(C))**

27-2-13 **FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-14 **RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-15 **AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-16 **POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any

other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any

private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-17 **INTOXICATION IN PUBLIC.** No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(65 ILCS 5/11-5-3)**

27-2-18 **BEGGING.** No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. **(65 ILCS 5/11-5-4)**

27-2-19 **CONCEALED WEAPONS.** No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or hand gun, without being the holder of an Illinois Concealed Carry License. Additionally, no person, shall within the City, carry or wear under his clothes or conceal about his person any sling-shot, cross knuckles, knuckles of lead, brass or other metal, switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any Sheriff or Deputy Sheriff or Constable of this State, nor to any United States Marshal.

27-2-20 **DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any citizen from discharging a firearm when lawfully defending his person or property; nor to prevent the discharge of bow and arrow by students upon school grounds while under the direct and immediate supervision of teachers or other school supervisory personnel.

27-2-21 **GAMES IN STREET.** No person shall, upon any City street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-22 **STORAGE OF EXPLOSIVES.**
(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.

(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds**. **(65 ILCS 5/11-8-4)**

27-2-23 **THROWING ROCKS.** No person in the City shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-24 **DESTRUCTION OF PUBLIC PROPERTY.** No person in the City shall deface, destroy, or in any way, injure any public property, or any other apparatus of the City.

27-2-25 **FORTUNE TELLING.** No person in the City shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-26 **ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. **(430 ILCS 150/0.01 and 150/1)**

27-2-27 **HALLOWEEN CURFEW.** It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the City, either masked or unmasked, except on a day designated by the City Council and no later than **8:00 P.M.** **(65 ILCS 5/11-1-5)**

27-2-28 **THEFT OF RECYCLABLES UNLAWFUL.** It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the City limits unless said person is acting as an agent for the City or acting as an agent for a waste hauler licensed by the City.

27-2-29 **THROWING OBJECTS FROM MOTOR VEHICLES.** Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the City Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-30 **DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

27-2-31 **PROTECTIVE COVERING OR FENCING.** Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(430 ILCS 165/1)**

27-2-32

(A)

CURFEW HOURS FOR MINORS.**Definitions.** Whenever used in this Section.

- (1) **"Curfew hours"** means:
 - (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
 - (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
 - (c) 12:01 A.M. until 6:00 A.M. on Sunday.
- (2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (3) **"Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- (4) **"Guardian"** means:
 - (a) A person who, under court order, is the guardian of the person of a minor; or
 - (b) A public or private agency with whom a minor has been placed by a court.
- (5) **"Minor"** means any person under **eighteen (18) years** of age.
- (6) **"Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (7) **"Parent"** means a person who is:
 - (a) A natural parent, adoptive parent, or stepparent of another person; or
 - (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (9) **"Remain"** means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B)

Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

- (C) **Defenses.**
- (1) It is a defense to prosecution under subsection (B) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
 - (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) **Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(65 ILCS 5/11-1-5)**

27-2-33 SANCTITY OF FUNERAL AND MEMORIAL SERVICES. It shall be unlawful for a person to violate any of the following provisions of this Section:

- (A) Engaging in any loud protest of 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. **(720 ILCS 5/26-6)**

27-2-34 **USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS**
PROHIBITED.

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

27-2-35 **NOISE.**

(A) **Prohibited; Enumeration.** The creating of any unreasonably loud, disturbing and unnecessary noise within the City limits is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited. The following, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

- (1) **Blowing Horns.** The sounding of any horn or signal device on any automobile, motorcycle or bus, while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (2) **Radios, Etc.** The playing of any radio, music player such as a boom box, tape cassette, disc player or television, audio system or musical instrument or live band in such a manner or with such volume, between the hours of **10:00 P.M.** and **7:00 A.M.** Sunday through Thursday and **11:00 P.M.** and **7:00 A.M.** Friday and Saturday in such a manner as to be plainly audible beyond the boundaries of the premises upon which such equipment is operated or used, shall be prima facie evidence of a violation of this Section.

27-2-36 **FALSE REPORT OF THEFT AND OTHER LOSSES.** It is unlawful for a person to knowingly make a false report of a theft, destruction, damage or conversion of any property to a law enforcement agency or other governmental agency with the intent to defraud an insurer. **(720 ILCS 5/26-1.1)**

27-2-37 **HARASSING AND OBSCENE COMMUNICATIONS.**

(A) **Definitions.** As used in this Section:

- (1) **Electronic communication** means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted

in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. "Electronic communication" includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.

- (2) **Family or household member** includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between **two (2)** individuals in business or social contexts shall be deemed to constitute a dating relationship.
- (3) **Harass or harassing** means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances, that would cause a reasonable person emotional distress and does cause emotional distress to another.

(B) **Transmission of Obscene Messages.**

- (1) A person commits transmission of obscene messages when he or she sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or sires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois.
- (2) The trier of fact may infer intent to offend from the use of language or terms which are obscene, lewd or immoral.

(C) **Harassment by Telephone.**

- (1) A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes:
- (a) making any comment, request, suggestion or proposition which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;
 - (b) making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;
 - (c) making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;
 - (d) making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;
 - (e) making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under **thirteen (13) years of age**, regardless of whether the person under **thirteen (13) years of age** consents to the harassment, if the defendant is at least **sixteen (16) years of age** at the time of the commission of the offense; or
 - (f) knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.
- (2) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this Section. The notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by

the word "WARNING". All telephone companies in this State shall cooperate with law enforcement agencies in using their facilities and personnel to detect and prevent violations of this Article.

(720 ILCS 5/26.5)

27-2-38 UNLAWFUL ASSEMBLY/PARKING. It shall be unlawful for **two (2)** or more persons, whether walking, or riding in or upon any kind or type of motor vehicle or bicycle, to be upon, assemble and/or park upon the real property of another without the express consent of the owner. **(Ord. No. 43-2003; 08-25-03)**

27-2-39 TOBACCO AND ELECTRONIC SMOKING DEVICES.

(A) **Definitions.** For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them:

(1) **Tobacco Products.** Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, nicotine gels and dissolvable nicotine products or any electronic smoking device.

(2) **Electronic Smoking Device.** An electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, hookah pen, vape pens or any other product name or descriptor. An electronic smoking device excludes any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

(B) **Purchases by Minors Prohibited.** It shall be unlawful for any person under the age of **twenty-one (21) years** to purchase tobacco products or electronic smoking devices, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products and electronic smoking devices.

(C) **Possession by Minors Prohibited.** It shall be unlawful for any person under the age of **twenty-one (21) years** to possess any tobacco products or electronic smoking devices, provided that the possession by a person under the age of **twenty-one (21) years** 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.

(D) **Use in City Park.** It shall be unlawful for any person to smoke tobacco products and electronic smoking devices in the City Park.

(65 ILCS 5/11-1-1)

ARTICLE III - OFFENSES AGAINST PROPERTY**27-3-1****PETTY THEFT.** A person commits theft when he or she knowingly:

- (A) obtains or exerts unauthorized control over property of the owner; or
- (B) obtains by deception, control over property of the owner; or
- (C) obtains by threat, control over property of the owner; or
- (D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; or
- (E) obtains or exerts control over property in the custody of any law enforcement agency which any law enforcement officer or any individual acting in behalf of a law enforcement agency explicitly represents to the person as being stolen or represents to the person such circumstances as would reasonably induce the person to believe that the property was stolen; and
 - (1) intends to deprive the owner permanently of the use or benefit of the property; or
 - (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
 - (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.
- (F) It shall be unlawful to commit a theft.

(720 ILCS 5/16-1)**27-3-2****CRIMINAL DAMAGE TO PROPERTY.** A person commits criminal damage to

property when he or she:

- (A) knowingly damages any property of another;
- (B) recklessly by means of fire or explosive damages property of another;
- (C) knowingly start a fire on the land of another;
- (D) knowingly injure a domestic animal of another without his or her consent;
- (E) knowingly deposits on the land or in the building of another any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building;
- (F) knowingly damages any property, other than as described in paragraph (2) of subsection (a) of Section 20-1, with intent to defraud an insurer;
- (G) knowingly shoots a firearm at any portion of a railroad train;
- (H) knowingly, without proper authorization, cuts, injures, damages, defaces, destroys, or tampers with any fire hydrant or any public or private fire-fighting equipment or any apparatus appertaining to firefighting equipment; or
- (I) intentionally, without proper authorization, opens any fire hydrant.

When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding nor not exceeding the specified value.

27-3-3**INJURY TO UTILITY WIRES AND POLES.**

It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-4 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the City.

27-3-5 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(720 ILCS 5/32-9)**

27-3-6 **ELECTRONIC DEVICES TO KILL INSECTS.** No person shall operate, between the hours of **12:01 A.M.** and **6:00 A.M.** of any day, on any property zoned for residential use, any electrical device which emits an audible sound and is designed or used for the purpose of killing insects out-of-doors.

27-3-7 **THEFT OF LABOR OR SERVICES.**
 (A) A person commits theft when he obtains the temporary use of property, labor or services of another which are available only for hire, by means of threat or deception or knowing that such use is without the consent of the person providing the property, labor or services.

(B) A person commits theft when, after renting or leasing a motor vehicle under an agreement in writing, which provides for the return of the vehicle to a particular place at a particular time, he fails to return the vehicle to the place within the time specified, and is thereafter served with a written demand, or upon whom oral demand is thereafter personally made to return the vehicle within **seventy-two (72) hours** from the time of the service or personal communication of such demand, and who fails to return the vehicle to any place of business of the lessor within the period, shall be punishable accordingly.

(C) A person commits theft of municipal services when, by means, threat, trickery or deception, or conspiracy, or knowing that such municipal service is not available free of charge, obtains such water or sewer or garbage collection, or landfill deposit services or any other services for charge offered by the City without paying for same as provided by the ordinances of the City then in effect. **(Ord. No. 19-83; 05-09-83) (720 ILCS 5/16-3)**

27-3-8 **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. **(720 ILCS 5/21-1.1)**

27-3-9 **CRIMINAL TRESPASS TO LAND.**
 (A) Whoever enters upon the land or any part thereof of another after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or remains upon the land of another after receiving notice from the owner or occupant to depart, commits a misdemeanor.

(B) A person has received notice from the owner or occupant within the meaning of subsection (A) if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to such land or the forbidden part thereon.

(C) This Section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his agent having apparent authority to hire workers on the land and assign them living quarters or a place of accommodation for living thereon, nor to anyone living on the land at the request of or by occupancy, leasing or other agreement or

arrangement with the owner or his agent, nor to anyone invited by such migrant worker or other person living on such land to visit him at the place he is so living upon the land. **(720 ILCS 5/21-3)**

27-3-10 TRESPASS.

(A) **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.

(B) **Specifically Enumerated Trespasses - Suppression.** Without constituting any limitation upon the provisions of subsection (A) of this Section, 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 subsection (A) of this Section 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:

- (1) An entry upon the premises, or any part thereof of another, 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
- (2) 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 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
- (3) 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
- (4) An entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to the possession or control thereof, or a failure or refusal to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right. **(65 ILCS 5/11-52)**

27-3-11 GAMBLING. A person commits gambling when he:

(A) Plays a game of chance or skill for money or other thing of value, unless expected in this Code; or

(B) Makes a wager upon the result of any game, contest, or any political nomination, appointment or election; or

(C) Operates, keeps, owns, uses, purchases, exhibits, rents, sells, bargains for the sale or lease of, manufactures or distributes any gambling device; or

(D) Contracts to have or give himself or another the option to buy or sell, or contracts to buy or sell at a future time, any grain or other commodity whatsoever, or any stock or security of any company, where it is, at the time of making such contract, intended by both parties thereto that the contract to buy or sell, or the option, whenever exercised, or the contract resulting therefrom shall be settled, not by the receipt or delivery of such property, but by the payment only of differences in prices thereof; however, the issuance, purchase, sale, exercise, endorsement or guarantee, by or through a person registered with the Secretary of State, pursuant to **Illinois Compiled Statutes, Chapter 815; Sec. 5/8**, or by or through a person exempt from such registration under **Chapter 815; Sec. 5/8** of a put, call or other option to buy or sell securities which have been registered with the Secretary of State, or which are exempt from such registration under **Illinois Compiled Statutes, Chapter 815; Sec. 5/8** is not gambling within the meaning of this paragraph; or

(E) Knowingly owns or possesses any book, instrument or apparatus by means of which bets or wagers have been or are recorded or registered, or knowingly possesses any money which he has received in the course of a bet or wager; or

(F) Sells pools upon the result of any game or contest of skill or chance, political nomination, appointment or election; or

(G) Sets up or promotes any lottery or sells, offers to sell or transfers any ticket or share for any lottery; or

(H) Sets up or promotes any lottery or sells, offers to sell or transfers any ticket or share for any lottery; or

(I) Knowingly advertises any lottery or policy game or drafts, prints or publishes any lottery ticket or share, or any policy ticket, slip, record, document or similar device, or any advertisement of any lottery or policy game; or

(J) Knowingly transmits information as to wagers, betting odds, or chances in betting odds by telephone, telegraph, radio, semaphore, or similar means; or knowingly installs or maintains equipment for the transmission or receipt of such information; except that nothing in this subsection prohibits transmission or receipt of such information for use in news reporting of sporting events or contests. **(See 720 ILCS Sec. 5/28-1)**

(K) Nothing in this Section shall prohibit the authorized legal wagering, or any acts that are allowed by the laws or the Statutes of Illinois, including gaming as allowed by the Video Gaming Act and excepted from the provisions of this Code pursuant to **Section 21-3-17 ("Gambling")**. **(Ord. NO. 14-2012; 07-09-12)**

ARTICLE IV - PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 **DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE.** A person commits disorderly conduct when he or she knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;

(B) transmits or causes to be transmitted in any manner to the Fire Department of any city, town, village or fire protection district, a false alarm of fire, knowing at the time of the transmission that there is no reasonable ground for believing that such fire exists;

(C) transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in a place where its explosion or release would endanger human life, knowing at the time of the transmission that there is no reasonable ground for believing that the bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in the place;

(D) transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session;

(E) transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being committed, or has been committed;

(F) transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting the report is necessary for the safety and welfare of the public; or

(G) calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency;

(H) transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the Abused and Neglected Child Reporting Act;

(I) transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, and ID/DD Community Care Act, or the MC/DD Act;

(J) transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that the assistance is required;

(K) transmits or causes to be transmitted a false report under Article II of Public Act 83-1432;

(L) enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(M) while acting as a collection agency as defined in the Collection Agency Act or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor.

(720 ILCS 5/26-1)

27-4-2 **RESISTING OR OBSTRUCTING A PEACE OFFICER.** A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(720 ILCS 5/31-1)**

27-4-3 **REFUSING TO AID AN OFFICER.** A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

- (A) apprehending a person whom the officer is authorized to apprehend; or
- (B) preventing the commission by another of any offense.

(720 ILCS 5/31-8)

27-4-4 **ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.**

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

- (1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.
- (2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:
 - (a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.
 - (b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.
 - (c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.
 - (d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."

(65 ILCS 5/11-5-2)

ARTICLE V - ANTI-LITTER

27-5-1 **DEFINITIONS.** For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the City.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 **LITTERING PROHIBITED.** No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 **PREVENTION OF SCATTERING.** Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 **RECEPTACLES - UPSETTING OR TAMPERING.** No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 **SIDEWALKS AND ALLEYS FREE FROM LITTER.** Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

27-5-6 **OWNER TO MAINTAIN PRIVATE PREMISES.**
(A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.
(B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 **LITTERING FROM VEHICLES.**
(A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.
(B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the City unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

27-5-8 **LITTERING FROM AIRCRAFT.** No person in an aircraft shall throw out, drop or deposit any litter within the City.

27-5-9 **LITTER IN PARKS.** No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 **HANDBILLS.**
(A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.
(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to

prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 CONSTRUCTION SITES.

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

(65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)

ARTICLE VI - TRESPASS

27-6-1 TRESPASSES PROHIBITED. It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

27-6-2 SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION. Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

(65 ILCS 5/11-5-2)

ARTICLE VII - PARENTAL RESPONSIBILITY REGULATIONS

27-7-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"ACTS OF VANDALISM AND SIMILAR OFFENSES" shall include any of the following acts:

- (A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the City, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or
- (B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or
- (C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or
- (D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or
- (E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

"LEGAL GUARDIAN" shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

"MINOR" shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

"PARENT" shall include the lawful father and mother of a minor child whether by birth or adoption.

"PROPERTY" shall include any real estate including improvements thereon and tangible personal property.

27-7-2 **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

- (A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and
- (B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the City, following said adjudication or non-judicial sanctions; and
- (C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(740 ILCS 115/1 et seq. and 740 ILCS 115/4)

ARTICLE VIII – TRUANCY AND CURFEW CODE

27-8-1 DEFINITIONS. As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"CITY CURFEW HOURS" means the period of time specified in **Section 27-2-31** of the Chapter.

"COURT" means the 1st Judicial Circuit; Williamson County, Illinois.

"CUSTODIAN" means:

- (A) a person who under court order is the custodian of the person of a minor or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

"GUARDIAN" means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor; or
- (C) a public or private agency with which the court has placed a minor.

"MINOR" means a person under **eighteen (18) years** of age.

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof

recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.

27-8-2 CURFEW RESTRICTIONS.

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(C) It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1) accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2) on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4) engaged in, going to or returning home from an employment activity without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence;
- (7) engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution; or
- (9) emancipated pursuant to law.

27-8-3 TRUANCY RESTRICTIONS.

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(C) It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2) involved in an emergency;
- (3) going to or returning from a medical appointment without any detour or stop;
- (4) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternative education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-8-4 ESTABLISHMENT RESTRICTIONS. It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2 or 27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2 or 27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

27-8-5 ENFORCEMENT RESTRICTIONS. Every member of the Police Department while on duty is hereby authorized as follows:

(A) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

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

- (1) state the name of the person being cited and the person's address if known;
- (2) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
- (3) be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-8-6 PENALTY.

(A) Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's

hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal

care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

27-8-7 **CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the City in collecting.

(65 ILCS 5/11-5-9)

ARTICLE IX - OPEN BURNING

27-9-1 **DEFINITIONS.** Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

"GARBAGE OR HOUSEHOLD TRASH" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

27-9-2 **BURNING TRASH LIMITED.** It shall be unlawful at any time for any person, firm or corporation to burn any trash within the corporate limits of the City. However, control burns of personal agricultural waste and landscape waste are allowed and may be burned between **six o'clock (6:00) A.M.** and **six o'clock (6:00) P.M.** if these materials are generated on the premises, but only when atmospheric conditions will readily dissipate contaminants and when such burning does not create a visibility hazard on roadways. **(Ord. No. 16-2017; 07-24-17)**

(A) **Fire Emergency.** Notwithstanding the above provision, it shall be unlawful to burn any plant matter after a fire emergency has been determined by the Fire Chief of the City of Herrin. The Fire Chief, in his discretion, may declare an emergency by publication of a notice to prohibit burning of leaves and other plant matter in any newspaper of general circulation in the City.

(B) **Disposal and Burning of Natural Vegetation.** It shall be unlawful for any person or firm to burn leaves of any other form of natural vegetation in any Municipal street, alley, right-of-way, ditch or easement. It shall be unlawful for any person or firm to use power equipment or rake leaves or any other form of natural vegetation into any Municipal street, alley, right-of-way, ditch or easement.

(Ord. No. 9-2011; 03-03-11)

27-9-3 **RESTRICTIONS ON BURNING OF LANDSCAPE WASTE.** The open burning of landscape waste shall be permitted only on the following conditions:

(A) Landscape waste shall be burned on the premises on which such waste is generated; and

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C) Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D) Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E) No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F) No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

(G) All open burning shall occur between **6:00 A.M.** and **6:00 P.M.**; provided however, all fires shall be extinguished by sunset.

(415 ILCS 5/1 et seq.)

ARTICLE X – SKATEBOARDS AND TOY VEHICLES

27-10-1 **DEFINITIONS.** As used in this Article, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (A) **Business District.** The City business district.
- (B) **Skateboard.** A device with wheels for riding upon, usually standing, including, without limitations, skateboards of all types.
- (C) **Toy Vehicles.** Coasters, scooters, roller skates, or any other non-motorized device with wheels or rollers upon which a person may ride. This definition does not apply, so long as they are used for the purposes for which they are intended, to wagons, wheelchairs and strollers or other devices designed and used for the purpose of transporting children, infants, physically challenged, or incapacitated persons, or to bicycles, or to carts or other devices intended and used for transporting merchandise or materials.

27-10-2 **SKATEBOARDING ON A STREET.** No person shall operate a skateboard or toy vehicle on a public street if there is a sidewalk adjacent to such street. If no sidewalk exists, skateboards may be ridden on the street providing street riding shall be done as far to the right side of the road as possible, and in the same direction as traffic.

27-10-3 **CLINGING TO A VEHICLE.** No person operating a skateboard, toy vehicle, or other non-motorized device shall attach himself or herself to any vehicle upon a roadway.

27-10-4 **YIELD RIGHT-OF-WAY.** Any person operating a skateboard or other toy vehicle must yield right of way to any pedestrian or motor vehicle.

- 27-10-5** **SKATEBOARDING ON PRIVATE PROPERTY.**
- (A) No person shall operate a skateboard or toy vehicle on the premises of any business, residence, or other private property in violation of a sign complying with this Section.
- (B) Areas in which skateboarding or operation of a toy vehicle is prohibited must be indicated by one or more signs which are positioned to provide notice and which contain the words "No Skateboarding" or any other word or combination of words indicating that skateboarding or operation of a toy vehicle is prohibited. Letters on the sign must be clearly legible.

27-10-6 **SKATEBOARDING ON PUBLIC PROPERTY.** No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of any public property.

27-10-7 **SKATEBOARDING IN THE BUSINESS DISTRICT.** No person shall operate a skateboard or toy vehicle within the City's business district.

27-10-8 **DAMAGING CITY PROPERTY.** No person shall operate a skateboard or toy vehicle on or against any municipal-owned table, bench, structure, tennis court, parking stop, retaining wall, fountain, statue, or other improvement which may suffer damage by such use.

27-10-9 **SKATEBOARD RAMPS.** No person shall use or place a ramp, jump, or any other device used to force a skateboard or toy vehicle off the pavement on the grounds of the municipal-owned parking lot, park or sidewalk.

27-10-10 **AGREEMENT FOR IMPOUNDMENT.** In place of any other penalty provided by law, any person violating this Article may, for a first offense, agree to have the skateboard or play vehicle impounded by the Police Department for **one (1) week**.

ARTICLE XI – ADULT USES REGULATED

27-11-1 **PURPOSE AND ADDITIONAL FINDINGS.**

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The City Council finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.
- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Article.

27-11-2 **DEFINITIONS.** As used in this Article:

Code. (A) "*Adult Oriented Business*" means an establishment as defined in the City

(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-11-3 PROHIBITION. It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-11-4 LIMITATION. This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-11-5 ADULT ENTERTAINMENT FACILITY. It is prohibited within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(65 ILCS 5/11-5-1.5)**

ARTICLE XII - OBSCENITY

27-12-1 **OBSCENITY.**

(A) **Elements of the Offense.** A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;
- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies,

or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(65 ILCS 5/11-5-1)**

27-12-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) Definitions.

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D) Affirmative Defenses.

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
 - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the

order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such

harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

“NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor.”

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(65 ILCS 5/11-5-1)**

27-12-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS. Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(720 ILCS 5/11-22)**

ARTICLE XIII – REGULATION OF BICYCLES, SKATEBOARDS AND SCOOTERS

27-13-1 **DEFINITIONS.** For the purpose of this Code, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

(A) **Bicycle.** Every device propelled by human power upon which a person may ride, having **two (2)** tandem wheels, either of which is **sixteen (16) inches** or more in diameter.

(B) **Skateboard.** A device for riding upon usually while standing in an upright position, propelled by human power, consisting of an oblong piece of wood mounted on skate wheels.

(C) **Scooter.** A vehicle that typically has **two (2) wheels** with a low footboard between them, and is steered by a handlebar, and is propelled by pushing **one (1) foot** against the ground while resting the other on the footboard.

(D) **Motorized Scooter.** A vehicle that typically has **two (2) wheels** with a low footboard between them and is steered by a handlebar and propelled by a motor.

(E) **Rollerskates or Rollerblades.** A type of skate with wheels or a blade propelled by human power on a smooth surface.

27-13-2 **PROHIBITIONS.** No person shall ride a bicycle, skateboard, scooter or motorized scooter, upon and along a sidewalk in the City, except that persons under the age of **twelve (12)** may ride a bicycle or tricycle upon and along sidewalks in a residential district. No person shall roller skate or roller blade upon or along a City sidewalk, except that a person under the age of **twelve (12)** may roller skate or roller blade along sidewalks in a residential district. Motorized scooters that are not subject to licensing pursuant to the Illinois Vehicle Code shall not be operated upon any street within the City. **(Ord. No. 24-2004; 06-14-04)**

27-13-3 **REQUIREMENTS.** All persons operating bicycles, skateboards, scooters, motorized scooters and roller skates or roller blades shall yield to pedestrians at all times.

27-13-4 **OBEDIENCE WITH TRAFFIC CONTROL LAWS.** All persons operating a bicycle, skateboard, scooter, or otherwise, roller skates or roller blades shall obey all laws applicable to vehicular traffic. **(Ord. No. 24-2004; 06-14-04)**

(Ord. No. 2-2003; 01-13-03)

ARTICLE XIV – SMOKE FREE AIR CODE

27-14-1 BACKGROUND. Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort, and property of residents of the City, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places and places of employment, in and near open air public dining areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues.

27-14-2 PURPOSE. This Article may be cited as the "Smoke Free Air Code," the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within **twenty-five (25) feet** of all public entrances to such places, in open air public dining areas and within **twenty-five (25) feet** of such areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues in order to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

27-14-3 DEFINITIONS. For the purposes of this Article, the following terms shall have the following meanings:

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

"Club" means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

"Employee" means any person who is employed or retained by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

"Employer" means any business that employs one or more employees.

"Enclosed Area" means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

"Open Air Dining Area" means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engaged in purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

"Outdoor Event" means a scheduled outdoor musical, dance, theatrical, dramatic, entertainment or performance event, or a scheduled outdoor community fair, parade, event or market, that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.

"Outdoor Venue" means an outdoor theater, amphitheater, plaza, street or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event that is organized, licensed or permitted by the owner of the venue.

"Place of Employment" means an area under the control of a public or private employer within the City that employees normally frequent during the course of employment, and includes, without

limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

"Park" means a public park or recreation area that is open to and used by the general public.

"Public Entrance" means the doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

"Public entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of employment; (i) that is open to and intended for use by the general public or business invitee's ingress and egress to the place of employment; (ii) where employees are required or permitted to enter or exit the place of employment.

"Public Place" means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

- (A) vehicles of public conveyance;
- (B) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;
- (C) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and City-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments.

(D) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the City where there is in progress any public meeting.

"Public place" shall not include:

- (A) a private dwelling unit, unless said dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or
- (B) hotel or motel rooms designated as smoking, provided that no more than **twenty percent (20%)** of the available rooms for rent in any single building shall be designated as smoking rooms.

"School Grounds" mean all public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

"Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

27-14-4 PROHIBITION IN ENCLOSED PUBLIC PLACES.

- (A) It is unlawful to smoke in any enclosed area of any public place.
- (B) It shall be unlawful for the owner, occupant or lessee, as the case may be, who is in control of a public place to knowingly permit smoking in any enclosed area in a public place.

27-14-5 PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.

(A) It is unlawful to smoke in the following unenclosed public places:

- (1) The seating areas of all outdoor arenas, stadiums and amphitheaters.
- (2) Public parks and recreation areas.
- (3) School grounds.
- (4) Public sidewalks within **fifteen (15) feet** of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
- (5) Public sidewalks within **fifteen (15) feet** of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

(B) It is unlawful to smoke in or within **fifteen (15) feet** of an outdoor venue during the time that an outdoor event is taking place.

27-14-6 PROHIBITION IN PLACES OF EMPLOYMENT.

(A) It is unlawful to smoke in any enclosed area of any place of employment.

(B) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

27-14-7 PROHIBITION IN OPEN AIR DINING AREAS.

(A) It is unlawful to smoke in open air dining area.

(B) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of an open air dining area to knowingly permit smoking in the area available for open air dining.

(C) it is unlawful to smoke within **fifteen (15) feet** of an open air dining area.

27-14-8 PROHIBITION AT PUBLIC ENTRANCES.

(A) It is unlawful to smoke within **fifteen (15) feet** of a public entrance to a public place or to a place of employment.

(B) It is unlawful for any person or persons to gather or congregate for the purpose of smoking within **fifteen (15) feet** of a public entrance.

27-14-9 DESIGNATION OF OTHER NO-SMOKING AREAS. Nothing in this Article shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Article as a place where smoking is also prohibited, provided that the owner, occupant or lessee shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

27-14-10 NO RETALIATION. No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Article or exercises by rights afforded by this Article.

27-14-11 SIGNS.

(A) Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, **four (4) inches** high with a **one-half (1/2) inch** face, or shall bear the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

(B) Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school ground, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area or school ground.

(C) Each owner, lessor, lessee, management company or other person in control of an outdoor venue shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the outdoor venue during outdoor events.

27-14-12 EXEMPTIONS. The prohibition on smoking set forth in Section 6-35 and 6-37 shall not apply to a public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.

27-14-13 PENALTIES.

(A) Any person who smokes in an area where smoking is prohibited under the provisions of this Article shall be guilty of an offense punishable by:

- (1) A fine of not less than **Twenty-Five Dollars (\$25.00)** for a first violation.
- (2) A fine of not less than **Fifty Dollars (\$50.00)** for a second violation.
- (3) A fine of not less than **One Hundred Dollars (\$100.00)** and not more than **Five Hundred Dollars (\$500.00)** for a third and subsequent violation(s).

(B) Any person who owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Article, shall be guilty of an offense punishable by a fine of (i) not less than **One Hundred Dollars (\$100.00)** for the first violation, (ii) not less than **Two Hundred Fifty Dollars (\$250.00)** for the second violations, and (iii) not less than **Five Hundred Dollars (\$500.00)** for each additional violation thereafter, unless said additional violation has occurred within **one (1) year** after the first violation, in which case the minimum fine shall be not less than **One Thousand Dollars (\$1,000.00)**. The maximum amount of fine to be levied herein shall not exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** for each violation.

(C) Each day that any violation of this Article shall continue shall constitute a separate offense.

ARTICLE XV - OFFENSES INVOLVING DRUGS

27-15-1 **DEFINITIONS.**

(A) **Cannabis.** Includes marijuana, hashish or other substances which are identified as including any parts of the plant *Cannabis sativa*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seeds of such plant. Cannabis shall also include any substance defined as cannabis in Section 3 of the Illinois Cannabis Control Act (**720 ILCS 550/3 et seq.**, and as hereafter amended).

(B) **Synthetic Cannabis.** Includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of cannabis including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.

(C) **Controlled Substance.** Any substance as defined in Article II of the Illinois Controlled Substances Act (**720 ILCS 570/201 et seq.**).

(D) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of cannabis, with or without consideration, whether or not there is an agency relationship.

(E) **Drug Paraphernalia.** All equipment, products, and materials of any kind which are intended to be used unlawfully in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body cannabis or a controlled substance in violation of this Article, the Cannabis Control Act (**720 ILCS 500/1 et seq.**) or the Illinois Controlled Substances Act (**720 ILCS 570/1 et seq.**). It includes, but is not limited to:

- (1) Kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing, or preparing cannabis or a controlled substance;
- (2) Isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (3) Testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness, or purity of cannabis or controlled substances;
- (4) Diluents or adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons;
- (5) Objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - (a) Water pipes;
 - (b) Carburetion tubes and devices;
 - (c) Smoking and carburetion masks;
 - (d) Miniature cocaine spoons and cocaine vials;
 - (e) Carburetor pipes;
 - (f) Electric pipes;
 - (g) Air driven pipes;
 - (h) Chillums;
 - (i) Bongs;
 - (j) Ice pipes or chillers.
- (6) Any item whose purpose, as announced or described by the seller, is for

use in violation of this act or article.

- (F) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (1) 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.
 - (2) 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.
 - (3) Knowledge may be inferred from the surrounding circumstances.
- (G) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of 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 cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
- (H) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (I) **Possession.** Possession may be either actual or constructive.
 - (1) Actual possession means exercising physical dominion.
 - (2) Constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
- (J) **Produce or Production.** Planting, cultivating, tending or harvesting.

27-15-2 POSSESSION OF CANNABIS OR SYNTHETIC CANNABIS.

- (A) **Violation.** No person shall possess **ten grams (10g)** or less of any substance containing cannabis or synthetic cannabis.
- (B) **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)**.
- (C) **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.
- (D) **Exception.** Any person, who manufactures, distributes, dispenses, or is in possession of any controlled substance for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

27-15-3 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED.

- (A) **Violation.** No person shall knowingly possess any item of drug paraphernalia with the intent to use it for the purpose of unlawfully ingesting, inhaling, or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use within the corporate limits of the City. In determining intent for the purposes of this Section, the trier of fact may take into consideration the proximity of the cannabis or controlled substances to drug paraphernalia or the presence of cannabis or a controlled substance on the drug paraphernalia.
- (B) **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)**.
- (C) **Forfeiture.** "Drug paraphernalia" as defined herein, seized by police officers pursuant to an arrest or issuance of a notice to appear for a violation of this Section, shall be forfeited to the City upon a plea of guilty, a finding of guilty and/or a disposition of court supervision or probation by a court of law or upon the individual utilizing any administrative remedy allowed by the City without

further order of the court. Any other items which may be seized or forfeited pursuant to **720 ILCS 600/5** may be forfeited in the same manner as described therein for a violation of this Section.

(D) **Exemptions.** This Section does not apply to:

- (1) Items used in the preparation, compounding, packaging, labeling, or other use of cannabis or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
- (2) Items historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance unless such item has the presence of cannabis or a controlled substance. Items exempt under this subsection include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes, and cigarette rolling papers.
- (3) Items listed in the definition of "drug paraphernalia" in **Section 27-15-1** of this Article if said items are used solely for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purposes prohibited by this Article.
- (4) A person who is legally authorized to possess hypodermic syringes or needles under the Hypodermic Syringes and Needles Act (**720 ILCS 635/0.01 et seq.**).

27-15-4 SALE OR DELIVERY OF DRUG PARAPHERNALIA PROHIBITED.

(A) **Violation.** It shall be unlawful for any person to keep for sale, offer for sale, sell, or deliver for any commercial consideration any item of drug paraphernalia within the corporate limits of the City.

(B) **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 **One Thousand Dollars (\$1,000.00)** for each item of drug paraphernalia.

(C) **Forfeiture.** "Drug paraphernalia" as defined herein, seized by police officers pursuant to an arrest or issuance of a notice to appear for a violation of this Section, shall be forfeited to the City upon a plea of guilty, a finding of guilty and/or a disposition of court supervision or probation by a court of law or upon the individual utilizing any administrative remedy allowed by the City without further order of the court. Any other items which may be seized or forfeited pursuant to **720 ILCS 600/5**, may be forfeited in the same manner as described therein for a violation of this Section.

(Ord. No. 4-2011; 01-24-11)

ARTICLE XVI - BATH SALTS

27-16-1 **DEFINITIONS.** The following terms shall have the following meanings, unless the context indicates that a different meaning is intended:

(A) **Synthetic Cocaine, "Bath Salts," or Substances Containing Cocaine.** Includes but is 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 Methylenedioxypropylamphetamine, (a psychoactive drug), or cathinone derivatives.

(B) **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.

(C) **Knowledge.** Knows, acts knowingly or with knowledge:

- (1) 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.
- (2) 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.
- (3) Knowledge may be inferred from the surrounding circumstances.

"Bath salts" is a substance that contains methylenedioxypropylamphetamine (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).

(D) **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.

(E) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.

(F) **Possession.** Possession may be either actual or constructive.

- (1) Actual possession means exercising physical dominion.
- (2) 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.

27-16-2 **POSSESSION OF SYNTHETIC COCAINE OR SUBSTANCE CONTAINING COCAINE OR "BATH SALTS" PROHIBITED.**

(A) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.

(B) **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)**.

(C) **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.

(D) **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.

(E) **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. 27-2011; 07-25-11)

ARTICLE XVII - REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-17-1 **DEFINITIONS.** The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" shall also include any privately owned recreational area upon which the City has been authorized by its owner to patrol and enforce the ordinances contained in this Code. The term "Park" shall also include ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

27-17-2 **PROHIBITED ACTS.**

(A) It is unlawful for a child sex offender to reside within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **one thousand five hundred (1,500) feet** of any of the following, unless the person loitering is with a child under the age of

eighteen (18) years and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park.

(C) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to employ a sex offender within **one thousand five hundred (1,500) feet** of any festival or other event which is open to the public.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **one thousand five hundred (1,500) feet** of any of the following:

(1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or

(2) The real property comprising any park.

27-17-3 PENALTY. Any person found guilty of violating paragraphs (A) or (B) of **Section 27-17-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraphs (C) or (D) of **Section 27-17-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager or other entity violating paragraphs (C) or (D) of **Section 27-17-2** shall be presumed to have had knowledge of the employee's or tenant's status as a child sex offender, where the employee's or tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-17-4 OTHER PROVISIONS.

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property or school property and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

ARTICLE XVIII – PUBLIC HEALTH, SAFETY AND DECENCY

27-18-1 UNLAWFUL USE OF WEAPONS.

(A) A person commits the offense of unlawful use of weapons when he knowingly:

- (1) Sells, manufactures, purchases, possesses, or carries any bludgeon, black-jack, sling-shot, sand-club, sand-bag, metal knuckles or any knife, commonly referred to as a switchblade knife, which has a blade that opens automatically, by hand pressure applied to a button, spring, or other device in the handle of the knife; or
- (2) Carries or possesses with intent to use the same unlawfully against another, a dagger, billy, dangerous knife, dirk, razor, stiletto broken bottle, or other piece of glass, or any other dangerous or deadly weapon or instrument of like character; or
- (3) Carries on or about his person or in any vehicle, a tear gas gun projector or bomb or any object containing noxious liquid gas or substance; or
- (4) Carries, concealed in any vehicle or concealed on or about his person, except when on his land or in his own abode or fixed place of business, any pistol, revolver or other firearm; or
- (5) Sets a spring gun; or
- (6) Possesses any device or attachment of any kind designed, used or intended for use in silencing the report of any firearm; or
- (7) Carries or possesses any firearm or other deadly weapon in any place which is licensed to sell intoxicating beverages, or at any public gathering held pursuant to a license issued by any governmental body or any public gathering at which an admission fee is charged, excluding a place where exhibition of unloaded firearms is conducted; or
- (8) Carries or possesses in a vehicle or on or about his person within the corporate limits of a city, village or incorporated town, except when on his land or in his own abode or fixed place of business, any loaded pistol, revolver or other firearm.

(B) The presence of an automobile other than a public omnibus of any weapon, instrument or substance referred to in this Chapter is prima facie evidence that it is in the possession of, and is being carried by all persons occupying such automobile at the time such weapon, instrument or substance is found, except under the following circumstances:

- (1) If such weapon, instrument or instrumentality is found upon the person of one of the occupants therein; or
- (2) If such weapon, instrument, or substance is found in an automobile operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his trade, then such presumption shall not apply to the driver.

27-18-2 UNLAWFUL SALE OF FIREARMS. A person commits the offense of unlawful sale of firearms when he knowingly:

- (A) Sells or gives any firearm of a size which may be concealed upon the person, to any person under the age of **eighteen (18) years**; or
- (B) Sells or gives any firearm to a person under **twenty-one (21) years** of age who has been convicted of a misdemeanor, other than a traffic offense or adjudged delinquent; or
- (C) Sells or gives any firearm to any narcotic addict; or
- (D) Sells or gives any firearm to any person who has been convicted of a felony under the laws of this or any other jurisdiction within **five (5) years** from release from the penitentiary or within **five (5) years** of conviction if penitentiary sentence has not been imposed; or
- (E) Sells or gives any firearm to any person who has been a patient in a mental hospital within the past **five (5) years**; or

- (F) Sells or gives any firearms to any person who is mentally retarded; or

(G) Delivers any firearm of a size which may be concealed upon the person, incidental to a sale, without withholding delivery of such firearm for at least **seventy-two (72) hours** after application for its purchase has been made, or delivers any rifle, shotgun or other long gun, incidental to a sale, without withholding delivery of such rifle, shotgun, or other long gun for at least **twenty-four (24) hours** after application for its purchase has been made. However, this paragraph shall not apply to:

- (1) The sale of a firearm to a law enforcement officer or a person who desires to purchase a firearm for use in promoting the public interest incident to his employment as a bank guard, armed truck guard, or other similar employment; or
- (2) A mail order sale of a firearm to a nonresident of Illinois under which the firearm is mailed to a point outside the boundaries of Illinois; or
- (3) The sale of a firearm to a non-resident of Illinois while at a firearm showing or display recognized by the Illinois Department of Law Enforcement; or
- (4) The sale of a firearm to a dealer licensed under the Federal Firearms Act of the United States.

27-18-3 UNLAWFUL POSSESSION OF FIREARMS AND FIREARM AMMUNITION.

A person commits the offense of unlawful possession of firearms or firearm ammunition when:

- (A) He is under **eighteen (18) years** of age and has in his possession, any firearm of a size which may be concealed upon the person.
- (B) He is under **twenty-one (21) years** of age, has been convicted of a misdemeanor other than a traffic offense or adjudged delinquent and has any firearms or firearm ammunition in his possession.
- (C) He has been convicted of a felony under the laws of this or any other jurisdiction within **five (5) years** from release from the penitentiary or within **five (5) years** of conviction if penitentiary sentence has not been imposed, and has any firearms or firearm ammunition in his possession.
- (D) He is a narcotic addict and has any firearms or firearm ammunition in his possession.
- (E) He has been a patient in a mental hospital within the past **five (5) years** and has any firearms or firearm ammunition in his possession.
- (F) He is mentally retarded and has any firearms or firearm ammunition in his possession. **(See 720 ILCS 5/24 3.1)**

27-18-4 REGISTER OF SALES BY DEALER.

- (A) Any seller of firearms of a size which may be concealed upon the person, other than a manufacturer selling to a bona fide wholesaler or retailer or a wholesaler selling to a bona fide retailer, shall keep a register of all firearms sold or given away.
- (B) Such register shall contain the date of the sale or gift, the name, address, age, and occupation of the person to whom the weapon is sold or given, the price of the weapon, the kind, description, and number of the weapon, and the purpose for which it was purchased and obtained.
- (C) Such seller, on demand of a peace officer, shall produce for inspection, the register and allow such peace officer to inspect such register and all stock on hand. **(See 720 ILCS 5/24-4-4)**

27-18-5 DEFAACING IDENTIFICATION MARKS OF FIREARMS.

- (A) Any person who shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identification of any firearm commits a misdemeanor.

(B) Possession of any firearm upon which any such mark shall have been changed, altered, removed or obliterated shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same. **(See 720 ILCS 5/24-5)**

27-18-6 **AGGRAVATED ASSAULT.** A person commits an aggravated assault when, in committing an assault, he:

- (A) Uses a deadly weapon;
- (B) Is hooded, robed or masked in such a manner as to conceal his identity;
- (C) Knows the individual assaulted to be a teacher or other person employed in any school and such teacher or other employee is upon the grounds of a school or grounds adjacent thereto, or is in any part of a building used for school purposes;
- (D) Knows the individual assaulted to be a supervisor, director, instructor, or other person employed in any park district and such supervisor, director, instructor or other employee is upon the grounds of the park or grounds adjacent thereto, or is in any part of a building used for park purposes;
- (E) Knows the individual assaulted to be a caseworker, investigator, or other person employed by the State Department of Public Aid or a County Department of Public Aid and such caseworker, investigator, or other person is upon the grounds of a Public Aid office or grounds adjacent thereto, or of a home of a public aid applicant, recipient or any other person being interviewed or investigated in the employee's discharge of his duties, or on grounds adjacent thereto, or is in any part of the building in which the applicant, recipient, or other such person resides or is located;
- (F) Knows the individual assaulted to be a peace officer, or a person summoned and directed by him or a correctional officer, while such officer is engaged in the execution of any of his official duties;
- (G) Knows the individual assaulted to be a fireman engaged in the execution of any of his official duties;
- (H) Knows the individual assaulted to be the driver, operator, employee or passenger of any transportation facility or system engaged in the business of transportation of the public for hire and the individual assaulted is then performing in such capacity or then using such public transportation as a passenger or using any area of any description designated by the transportation facility or system as a vehicle boarding, departure, or transfer location;
- (I) Or the individual assaulted is on or about a public way, public property, or public place of accommodation or amusement; or
- (J) Knows the individual assaulted to be an employee of the State of Illinois, a municipal corporation therein or a political subdivision thereof, engaged in the performance of his authorized duties as such employee.

27-18-7 **UNLAWFUL SALE OF WEAPONS TO MINORS.** A person commits the offense of unlawful sale of weapons to minors when he sells any weapon to a person under the age of **eighteen (18) years.** **(Ord. No. 15-87; 07-02-87)**

27-18-8 **DEFINITION OF "WEAPON".** As used in this Code, "**weapon**" shall include, but not be limited to, the following: Bludgeon, blackjack, slingshot, sand club, sandbag, metal knuckles, any martial arts weapon, throwing stars, survival knife, as a switchblade knife which has a blade that opens automatically by hand pressure applied to a button, spring, or other device in the handle of the knife. **(Ord. No. 15-87; 07-02-87)**

27-18-9 GANG ACTIVITY.

(A) **Temporary Questioning Without Arrest.** A police officer, after having identified himself as a police officer, may stop any person in a public place for a reasonable period of time when the person is wearing known gang colors, emblems, or other gang insignia, or appears to be engaged in communicating gang related messages through the use of hand signals or other means of communication, or as otherwise provided by law, and the officer reasonably infers from the circumstances that the person is committing, is about to commit or has committed any offense set forth in the Code of the City. Once stopped, the officer may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped.

(B) **Search for Weapons.** When a police officer has stopped a person for temporary questioning pursuant to Subsection (A) and the officer reasonably suspects that he or another officer is in danger of attack, he may search the person for weapons. If an officer discovers a weapon, he may take it until the completion of the questioning, at which time he shall return the weapon, if lawfully possessed, or arrest the person questioned. **(Ord. No. 795; 03-13-95)**

27-18-10 INTERFERENCE WITH CITY EMPLOYEES AND OFFICERS. It is unlawful to interfere with or hinder any officer or employee of the City while engaged in the duties of his office or employment. **(Ord. No. 7-95; 03-13-95)**

27-18-11 INTOXICATING LIQUORS. Any officer having personal knowledge or reasonable information that intoxicating liquors are being kept in violation of law in any place, shall search such suspected place, and if such officer or person finds upon the premises intoxicating liquors he shall seize the same, together with the vessels in which they are contained, and all implements and furniture used in connection with such liquors in the illegal keeping, bargaining, selling, exchanging, giving away or carrying the same, and any wagon, automobile, vehicle, contrivance, thing or device used in conveying said liquors or kept for the purpose of violating this Section, and shall arrest any person or persons in charge of such place, or aiding in any manner in carrying on the business conducted in such place. **(Ord. No. 7-95; 03-13-95) (See 65 ILCS 5/11-5-3)**

27-18-12 OFFENSES AGAINST PUBLIC PEACE. No person in the City shall:

(A) **Unlawful Conduct.** Disturb, tend to disturb or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him under his control.

(B) **Assault.** Assault, beat, strike, wound, imprison or inflict violence on another where the circumstances show malice or assault another with intent to commit any misdemeanor or felony. Nor shall any person assault another with a lethal weapon, instrument or thing with intent to commit upon the person of another any bodily injury where no considerable provocation of appears or where the circumstances of the assault show malice.

(C) **Fighting.** Fighting another person.
(Ord. No. 43-2003; 08-25-03)

27-18-13 BATTERY.

(A) A person commits battery if he intentionally or knowingly without legal justification and by any means:

- (1) causes bodily harm to an individual, or
- (2) makes physical contact of an insulting or provoking nature with an individual.

(B) It shall be unlawful to commit a battery. **(See 720 ILCS 5/12-3)**

27-18-14 **CRIMINAL HOUSING MANAGEMENT.** A person commits the offense of criminal housing management when, having personal management or control of residential real estate, whether as a legal or equitable owner of residential real estate or as a managing agent or otherwise, he knowingly permits by his gross carelessness or neglect, the physical condition or facilities of the residential real estate to become or remain so deteriorated that the health or safety of any inhabitant is endangered.

27-18-15 **TATTOOING BODY OF MINOR.** Any person, other than a person licensed to practice medicine in all its branches, who tattoos or offers to tattoo a person under the age of **twenty-one (21) years** is guilty of an offense.

As used in this Section, to "tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin. **(Ord. No. 16-99; 04-12-99)**

CHAPTER 28 – PARKS AND LAKES

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CHAPTER 28

PARKS AND LAKES

ARTICLE I - DEFINITIONS

28-1-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"APPLICANT" shall include any person over the age of **eighteen (18)** who submits an application for a permit to the City Clerk's Office.

"APPLICANT'S PROPERTY" shall include all personal property owned by or controlled by the applicant, that is used on or near City Lake Number 1 or City Lake Number 2.

"CITY LAKE NUMBER 1" shall include all real property in and around City Lake Number 1 owned by the City, and all personal property owned by the City which is utilized on or near City Lake Number 1.

"CITY LAKE NUMBER 2" shall include all real property in and around City Lake Number 2 owned by the City, and all personal property owned by the City which is utilized on or near City Lake Number 2.

"MOTOR" shall mean and include electric motors and internal combustion engines.

"PERMIT" shall mean a permit issued by the City Clerk upon application for the use of City Lake Number 2. All permits shall be issued to a person **eighteen (18) years** of age or older. **(Ord. No. 15-09; 04-27-09)**

ARTICLE II – GENERAL REQUIREMENTS

28-2-1 **HOURS.** No person shall be on the property of City Lake Number 1 between the hours of **10:00 P.M. to 5:00 A.M.**, or on the property of City Lake Number 2 from the hours of **10:00 P.M. to 5:00 A.M.** **(Ord. No. 15-09; 04-27-09)**

28-2-2 **APPLICATIONS FOR PERMITS.** Applications to obtain a permit to hunt waterfowl on City Lake Number 2 shall be made in the office of the City Clerk. A permit may be issued upon the filing of a completed application by a person **eighteen (18) years** of age or older. The application shall list the name, address and telephone number of the applicant and the number of persons in the party. In addition, all license numbers of any vehicles to be taken upon City Lake Number 2 property shall be provided; including boats, trailers, etc. Incomplete applications shall be denied. Permits shall be issued on a first-come, first serve basis. **(Ord. No. 15-09; 04-27-09)**

28-2-3 **RESPONSIBILITY.** All persons receiving permits to hunt at City Lake Number 2, and all persons using City Lake Number 1, shall be responsible to leave the lake property free of all refuse and garbage. Failure to comply with this requirement shall subject the person granted the permit to prosecution and to fines or penalties as provided in **Section 1-1-19** of this Code, plus the cost of clean-up paid by the City. The City assumes no responsibility for the personal property on Lake property. **(Ord. No. 9-2011; 03-03-11)**

ARTICLE III – CITY LAKE NUMBER 1

28-3-1 **RULES AND REGULATIONS.** The following rules and regulations shall apply to the use of City Lake Number 1:

(A) The boat ramp, dock and lake are open to the general public from **5:00 A.M.** until **10:00 P.M.** daily.

(B) The following activities are strictly prohibited at City Lake Number 1:

- (1) Overnight camping.
- (2) Open fires.
- (3) Swimming.
- (4) Hunting.
- (5) Firearms and pellet guns of any type are prohibited.
- (6) Gasoline motors of any size are prohibited. Only trolling motors and oars (paddles) are permitted.

(Ord. No. 15-09; 04-27-09)

ARTICLE IV – CITY LAKE NUMBER 2

28-4-1 **RULES AND REGULATIONS.** The following rules and regulations shall apply to the use of City Lake Number 2:

(A) City Lake Number 2 is open to the general public from **5:00 A.M.** to **10:00 P.M.**

(B) Camping is strictly prohibited.

(C) Camp fires are prohibited at any time.

(D) Hunting of waterfowl is permitted.

(E) The following activities are strictly prohibited at City Lake Number 2:

- (1) Camping.
- (2) Swimming.
- (3) Hunting, except as provided in paragraph (D) hereinabove.
- (4) Gas motors in excess of **ten (10) horsepower** are strictly prohibited.

(Ord. No. 15-09; 04-27-09)

CHAPTER 29 – PROPERTY MAINTENANCE CODE

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CHAPTER 29

PROPERTY MAINTENANCE CODE

ARTICLE I – SCOPE AND ADMINISTRATION

DIVISION - GENERAL

29-1-1 **TITLE.** These regulations shall be known as the Property Maintenance Code of the City of Herrin, Illinois hereinafter referred to as "this Code". **(IPMC 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, *ventilations*, 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. **(IPMC 101.2)**

Exception: This Code shall not apply to Commercial *structures* unless they contain residential uses.

[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. **(IPMC 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. **(IPMC 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.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this Code and the reference standards, the provisions of this Code shall apply. Where, in a specific case, different sections of this Code specify different requirements, the most restrictive shall govern. **(IPMC 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. (IPMC 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 Building Code, International Fuel Gas Code, International Mechanical Code, and NFPA 70.* Nothing in this Code shall be construed to cancel, modify or set aside any provision of the *Municipal Zoning Code.* **(IPMC 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. **(IPMC 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. **(IPMC 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. **(IPMC 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 and as further regulated in **Sections 29-1-11(A) and 29-1-11(B). (IPMC 102.7)**

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. **(IPMC 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*. **(IPMC 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. **(IPMC 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. **(IPMC 102.10)**

DIVISION III – DEPARTMENT OF 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*. **(IPMC 103.1)**

29-1-16 APPOINTMENT. The *Code Official* shall be appointed by the chief appointing of the jurisdiction. **(IPMC 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(s). Such employees shall have powers as delegated by the *Code Official*. **(IPMC 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. **(IPMC 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 use, 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 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 as indicated in the schedule found in **Appendix "A"** at the conclusion of this Chapter. **(IPMC 103.5)**

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. **(IPMC 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)**

29-1-23 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 a 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. **(IPMC 104.3)**

*[This Section establishes the right of the Code Official to enter the premises in order to make the inspections required by **Section 29-1-23**. 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 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 **IDENTIFICATION.** The *Code Official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this Code. **(IPMC 104.4)**

29-1-25 **NOTICES AND ORDERS.** The *Code Official* shall issue all necessary notices or orders to ensure compliance with this Code. **(IPMC 104.5)**

29-1-26 **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. **(IPMC 104.6)**

DIVISION V - APPROVAL

29-1-27 **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 upon application of the *owner* or *owner's* representative, 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. **(IPMC 105.1)**

29-1-28 **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. **(IPMC 105.2)**

29-1-29 **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. **(IPMC 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. **(IPMC 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. **(IPMC 105.3.2)**

29-1-30 **USED MATERIAL AND EQUIPMENT.** The use of used materials which meet the requirements of this Code for new materials is permitted. 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* by the *Code Official*. **(IPMC 105.4)**

29-1-31 **APPROVED MATERIALS AND EQUIPMENT.** Materials, *equipment* and devices *approved* by the *Code Official* shall be constructed and installed in accordance with such approval. **(IPMC 105.5)**

29-1-32 **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. **(IPMC 105.6)**

DIVISION VI - VIOLATIONS

29-1-33 **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. **(IPMC 106.1)**

29-1-34 **NOTICE OF VIOLATION.** The *Code Official* shall serve a notice of violation or order in accordance with **Division VII**. **(IPMC 106.2)**

29-1-35 **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 or civil infraction as determined by the City, 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 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. **(IPMC 106.3)**

29-1-36 **VIOLATION PENALTIES.** Any person who shall violate a provision of this Code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this Code, shall be subject to all fines, penalties, and sentencing of a petty offense, as such term is defined in the Unified Code of Corrections Act (**730 ILCS 5/5-4.5-75**). Each day that a violation continues after due notice has been served shall be deemed a separate offense. (**IPMC 106.4**)

29-1-37 **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*. (**IPMC 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.]

DIVISION VII – NOTICES AND ORDERS

29-1-38 **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 29-1-39** and **29-1-40** to the *person* responsible for the violation as specified in this Code. Notices for condemnation procedures shall also comply with **Section 29-1-45**. (**IPMC 107.1**)

29-1-39 **FORM.** Such notice prescribed in **Section 29-1-38** shall be in accordance with all of the following: (**IPMC 107.2**)

- (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 29-1-35**.

29-1-40 **METHOD OF SERVICE.** Such notice shall be deemed to be properly served if a copy thereof is: (**IPMC 107.3**)

- (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.

29-1-41 **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*. (**IPMC 107.4**)

29-1-42 **PENALTIES.** Penalties for noncompliance with orders and notices shall be as set forth in **Section 29-1-36. (IPMC 107.5)**

29-1-43 **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. **(IPMC 107.6)**

[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.]

DIVISION VIII - UNSAFE STRUCTURES AND EQUIPMENT

29-1-44 **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. **(IPMC 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. **(IPMC 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. **(IPMC 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. **(IPMC 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. **(IPMC 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. **(IPMC 108.1.5)**

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to any *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (2) The walking surface 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, becomes 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 City, 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.

29-1-45 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. **(IPMC 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 disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter. **(IPMC 108.2.1)**

29-1-46 **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 service on the *owner* or the *person* or *persons* responsible for the structure or *equipment* in accordance with **Section 29-1-40**. 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 29-1-39**. **(IPMC 108.3)**

29-1-47 **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. **(IPMC 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. **(IPMC 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.]

29-1-48 **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. **(IPMC 108.5)**

29-1-49 **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. **(IPMC 108.6)**

29-1-50 **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. **(IPMC 108.7)**

DIVISION IX - EMERGENCY MEASURES

29-1-51 **IMMINENT DANGER.** When, in the opinion of the *Code Official*, there is *imminent danger* 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. **(IPMC 109.1)**

29-1-52 **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. **(IPMC 109.2)**

29-1-53 **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. **(IPMC 109.3)**

29-1-54 **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. **(IPMC 109.4)**

29-1-55 **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. **(IPMC 109.5)**

29-1-56 **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. **(IPMC 109.6)**

DIVISION X - DEMOLITION

29-1-57 **GENERAL.** The *Code Official* shall order the *owner* of any *premises* upon which is located any structure, which in the *Code Official's* judgement after review is deteriorated or 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 board up and hold for future repair 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**, the *Code Official* shall order the *owner* to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond **one (1) year**, unless *approved* by the building official. **(IPMC 110.1)**

29-1-58 **NOTICES AND ORDERS.** All notices and orders shall comply with **Division VII.**
(IPMC 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).]

29-1-59 **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. **(IPMC 110.3)**

29-1-60 **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 or expense and the 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. **(IPMC 110.4)**

DIVISION XI - MEANS OF APPEAL

29-1-61 **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. **(IPMC 111.1)**

29-1-62 **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 of this City. 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, and shall serve staggered and overlapping terms as follows: **one (1) for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year.** Thereafter, each new member shall serve for **five (5) years** or until a successor has been appointed. **(IPMC 111.2)**

(A) **Alternate Members.** The Mayor shall appoint a minimum of **two (2) 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. **(IPMC 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. **(IPMC 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. **(IPMC 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, and in the office of the *Code Official*. **(IPMC 111.2.4)**

[The Secretary is required to file a detailed record of all proceedings in the office of the Chief Administrative Officer.]

29-1-63 **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. **(IPMC 111.3)**

29-1-64 **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 a minimum of **two-thirds (2/3)** of the Board membership. **(IPMC 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 is received. **(IPMC 111.4.1)**

29-1-65 **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. **(IPMC 111.5)**

29-1-66 **BOARD DECISION.** The Board shall modify or reverse the decision of the *Code Official* by a concurring vote of **three (3) members**. **(IPMC 111.6)**

(A) **Resolution.** The decision of the Board shall be by resolution. Certified copies shall be furnished to the appellant and the *Code Official*. **(IPMC 111.6.1)**

(B) **Administration.** The *Code Official* shall take action with **five (5) working days** in accordance with the decision of the Board. **(IPMC 111.6.2)**

[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.]

29-1-67 **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. **(IPMC 111.7)**

29-1-68 **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. **(IPMC 111.8)**

DIVISION XII – STOP WORK ORDERS

29-1-69 **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. **(IPMC 112.1)**

29-1-70 **ISSUANCE.** A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* 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. **(IPMC 112.2)**

29-1-71 **EMERGENCIES.** Where an emergency exists, the *Code Official* shall not be required to give a written notice prior to stopping the work. **(IPMC 112.3)**

29-1-72 **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 **Seventy-Five Dollars (\$75.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day that a violation continues shall be considered a separate offense. **(IPMC 112.4)**

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 Chapter. **(IPMC 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. **(IPMC 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 Mechanical Code, Residential Code, State of Illinois Plumbing Code, International Residential Code, City Zoning Code* or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes. **(IPMC 201.3)**

29-2-4 **TERMS NOT DEFINED.** Where terms are not defined through the methods authorized by this Section, such terms shall have ordinarily accepted meanings such as the context implies. **(IPMC 201.4)**

29-2-5 **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". **(IPMC 201.5)**

DIVISION II - GENERAL DEFINITIONS

29-2-6 **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, snigger, hangars or saddles, that transmit gravity load, lateral load and operating load between the *equipment* and the structure.

"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.

"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 reasons 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.

"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": 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 Chapter and the rules and regulations adopted pursuant hereto 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": Any natural *person*, agent, association, firm, partnership, corporation or other entity capable of owning, occupying, or using property in the City.

"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": The lot, plot or parcel of land, and includes the buildings, *structures*, and *dwelling units* thereon.

"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.

"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*.

"STRICT LIABILITY OFFENSE": An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

"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.

"TOILET ROOM": A room containing a water closet or urinal but not a bathtub or shower.

"ULTIMATE DEFORMATION": The deformation at which failure occurs and which be deemed to occur if the sustainable load reduces to **eighty percent (80%)** or less of the maximum strength.

"VENTILATION": The natural or mechanical process of supplying conditioned or unconditioned 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 located 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.

(A) **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.

(B) **Yard, Front.** A *yard* extending across the full width of the lot between the front lot line and nearest line or point of the principal building.

(C) **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.

(IPMC 202)

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*. **(IPMC 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. **(IPMC 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. **(IPMC 301.3)**

DIVISION II - EXTERIOR PROPERTY AREAS

29-3-4 **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. **(IPMC 302.1)**

29-3-5 **GRADING AND DRAINING.** 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. **(IPMC 302.2)**

(A) **Exception:** *Approved* retention areas and reservoirs.

29-3-6 **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. **(IPMC 302.3)**

29-3-7 **WEEDS.** This Section shall be utilized in conjunction with the City Code, **Chapter 25, Article I**, and its subsections. All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of **twelve (12) inches**. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers or gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with **Section 29-1-35** and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the cost of such removal shall be paid by the *owner* or agent responsible for the property. **(IPMC 302.4)**

29-3-8 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 *pest elimination*, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation. **(IPMC 302.5)**

29-3-9 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*. **(IPMC 302.6)**

29-3-10 ACCESSORY STRUCTURES. All accessory *structures*, including detached garages, fence and walls, shall be maintained structurally sound and in good repair. **(IPMC 302.7)**

29-3-11 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. **(IPMC 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.

29-3-12 PARKING MOTOR VEHICLES. The parking of vehicles on any surface that is not an improved 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 City Zoning Code **Chapter 40 Section 40-5-2.**

(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.

29-3-13 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 cleaning so that such unpainted surface is returned.

DIVISION III – SWIMMING POOLS, SPAS AND HOT TUBS

29-3-14 SWIMMING POOLS. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair. **(IPMC 303.1)**

29-3-15 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. Openings in the fence or barrier shall not allow the passage

of a **four (4) inch diameter (102 mm)** sphere. The vertical clearance between grade and the bottom of the fence or barrier shall not exceed **two (2) inches (51 mm)** for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the fence or barrier that faces away from the vessel. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of **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. **(IPMC 303.2)**

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this Section.

29-3-16 **BARRIER.** Where a wall of a dwelling serve as part of barrier, one of the following conditions shall be met: **(IRC AG105.2(9))**

(A) The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346;

(B) Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and *labeled* in accordance with UL 2017. The deactivation switch(es) shall be located at least **fifty-four (54) inches (1372 mm)** above the threshold of the door; or

(C) Other means of protection, such as self-closing doors with self-latching devices, which are *approved* by the governing body, shall be accepted as long as the degree of protection afforded is not less than the protection afforded by item 1 and 2 described herein.

DIVISION IV - EXTERIOR STRUCTURE

29-3-17 **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. **(IPMC 304.1)**

29-3-18 **UNSAFE CONDITIONS.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* as required for existing buildings: **(IPMC 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) *Structure* 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.

29-3-19 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. **(IPMC 304.2)**

29-3-20 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)** in height with a minimum stroke width of **one-half (0.5) inch (12.7 mm)**. **(IPMC 304.3)**

29-3-21 STRUCTURAL MEMBERS. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads. **(IPMC 304.4)**

29-3-22 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. **(IPMC 304.5)**

29-3-23 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*. **(IPMC 304.6)**

29-3-24 **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. **(IPMC 304.7)**

29-3-25 **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. **(IPMC 304.8)**

29-3-26 **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. **(IPMC 304.9)**

29-3-27 **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. **(IPMC 304.10)**

29-3-28 **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. **(IPMC 304.12)** Handrails shall be provided on at least one side of each continuous run of treads or flight with **four (4)** or more risers. **(IRC R311.7.8)**

29-3-29 **OPENING LIMITATIONS.** Required *guards* shall not have openings from the walking surface to the required *guard* height which allow passage of a sphere **four (4) inches (102 mm)** in diameter. **(IRC R312.1.3)**

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. **(IPMC 304.13)**

(A) **Glazing.** All glazing materials shall be maintained free from cracks and holes. **(IPMC 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. **(IPMC 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 screen door used for insect control shall have a self-closing device in good working condition. **(IPMC 304.14)**

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, *operator* systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to *dwelling units* and *sleeping units*

shall tightly secure the door. Locks on means of egress doors shall be in accordance with **Section 29-7-5. (IPMC 304.15)**

29-3-33 BASEMENT HATCHWAYS. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water. **(IPMC 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. **(IPMC 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. **(IPMC 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 designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of **one (1) inch (25 mm)**. Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this Section, a sliding bolt shall not be considered an acceptable deadbolt lock. **(IPMC 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 device. **(IPMC 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. **(IPMC 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. **(IPMC 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*. **(IPMC 305.1)**

(A) **Unsafe Conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with *International Building Code* as required for existing buildings: **(IPMC 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.

Exceptions:

- (1) When substantiated otherwise by an *approved* method.
- (2) Demolition of unsafe conditions shall be permitted when *approved* by the *Code Official*.

29-3-38 **STRUCTURAL MEMBERS.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads. **(IPMC 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. **(IPMC 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. **(IPMC 305.4)**

29-3-41 **OPEN RISERS.** Open risers are permitted provided that the opening between treads does not permit the passage of a **four (4) inch diameter (102 mm)** sphere. **(IRC R311.7.5.1)**

29-3-42 **UNDER-STAIR PROTECTION.** Enclosed accessible space under-stairs shall have walls, under-stair surface and any soffits protected on the enclosed side with **one-half (1/2) inch (12.7 mm)** gypsum board. **(IRC R302.7)**

29-3-43 **HANDRAILS AND GUARDS.** Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in sound condition and good repair. **(IPMC 305.5)** Handrails shall be provided on at least one side of each continuous run of treads or flight with four or more risers. **(IRC R311.7.8)**

29-3-44 **OPENING LIMITATIONS.** Required *guards* shall not have openings from the walking surface to the required *guard* height which allow passage of a sphere **four (4) inches (102 mm)** in diameter. **(IRC R312.1.3)**

29-3-45 **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. **(IPMC 305.6)**

29-3-46 DWELLING/GARAGE OPENING PENETRATION PROTECTION. Openings and penetrations through the walls or ceilings separating the dwelling from the garage shall be in accordance with **Section 29-3-(A) through 29-3-(C). (IRC R302.5)**

(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 *equipment* with solid wood doors not less than **one and three-eighths (1 3/8) inches (35 mm)** thick, or 20-minute fire-rated doors, equipped with a self-closing device. **(IRC R302.5.1)**

(B) **Duct Penetration.** Ducts in the garage and ducts penetrating the walls or ceiling separating the dwelling from the garage shall be constructed of a minimum No. 26 gauge (0.48 mm) sheet steel or other *approved* material and shall have no openings into the garage. **(IRC R302.5.2)**

(C) **Other Penetrations.** Penetrations through the separation required in Section R302.6 shall be protected as required by **Section 29-3-(C)(1). (IRC R302.5.3)**

- (1) At Opening around vents, pipes, ducts, cables and wires at ceiling and floor level, with an *approved* material to resist the free passage of flame and products of combustion. The material filling this annular space shall not be required to meet the ASTM E 136 requirements. **(IRC R302.11 item 4)**

29-3-47 GARAGE CEILING. Type X gypsum board (5/8) for garage ceiling beneath habitable rooms shall be installed perpendicular to the ceiling framing and shall be fastened at maximum **six (6) inches** o.c. by minimum 1 7/8 inches 6d coated nails or equivalent drywall screws.

Exception: Not required where an *approved* certified sprinkler system is installed.

29-3-48 AUTOMATIC GARAGE DOOR OPENERS. Automatic garage door openers, if provided, shall be listed and *labeled* in accordance with UL 325. **(IRC 309.4)**

NOTE: Automatic garage door openers must have receptacle, the use of an extension cord is prohibited.

DIVISION VI – COMPONENT SERVICEABILITY

29-3-49 GENERAL. The components of a *structure* and *equipment* therein shall be maintained in good repair, structurally sound and in a sanitary condition. **(IPMC 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 *International Building Code* as required for existing buildings: **(IPMC 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) *Deterioration*;
 - (c) Damage from insects, rodents or 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:

- (1) When substantiated otherwise by an *approved* method.
- (2) Demolition of unsafe conditions shall be permitted when *approved* by the *Code*

Official.

DIVISION VII – HANDRAILS AND GUARDRAILS

29-3-50 GENERAL. Every exterior and interior flight of stairs having more than **four (4) risers** shall have a handrail on one side of the stair 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. **(IPMC 307.1)** Handrails shall be provided on at least one side of each continuous run of treads or flight with **four (4)** or more risers. **(IRC R311.7.8)**

29-3-51 **OPENING LIMITATIONS.** Required *guards* shall not have openings from the walking surface to the required *guard* height which allow passage of a sphere **four (4) inches (102 mm)** in diameter. **(IRC R312.1.3)**

Exception: *Guards* shall not be required where exempted by the adopted building code.

DIVISION VIII - RUBBISH AND GARBAGE

29-3-52 **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*. **(IPMC 308.1)**

29-3-53 **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. **(IPMC 308.2)**

(A) **Rubbish Storage Facilities.** The *owner* of every occupied premises shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*. **(IPMC 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. **(IPMC 308.2.2)**

29-3-54 **DISPOSAL OF GARBAGE.** Every *occupant* of a *structure* shall dispose of *rubbish*, *garbage* in a clean and sanitary manner by placing such *garbage* in an *approved garbage* disposal facility or *approved garbage* containers. **(IPMC 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. **(IPMC 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. **(IPMC 308.3.2)**

DIVISION IX – PEST ELIMINATION

29-3-55 **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. **(IPMC 309.1)**

29-3-56 **OWNER.** The *owner* of any *structure* shall be responsible for *pest elimination* within the *structure* prior to renting or leasing the *structure*. **(IPMC 309.2)**

29-3-57 **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*. **(IPMC 309.2)**

29-3-58 **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*. **(IPMC 309.4)**

29-3-59 **OCCUPANT.** The *occupant* of any *structure* shall be responsible for the continued rodent and pest-free condition of the *structure*. **(IPMC 309.5)**

(A) **Exception:** Where the *infestations* are caused by defects in the *structure*, the *owner* shall be responsible for *pest elimination*.

ARTICLE IV - LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS**DIVISION I - GENERAL**

29-4-1 **SCOPE.** The provisions of this Article shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a *structure*. **(IPMC 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 Article. **(IPMC 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. **(IPMC 401.3)**

DIVISION II - LIGHT

29-4-4 **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. **(IPMC 402.1)**

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 a minimum of **twenty-five (25) square feet (2.33 m²)**. The exterior glazing area shall be based on the total floor area being served.

29-4-5 **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 m²)** 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. **(IPMC 402.2)**

29-4-6 **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 *appliances, equipment* and fixtures. **(IPMC 402.3)**

DIVISION III - VENTILATION

29-4-7 **HABITABLE SPACES.** Every *habitable space* shall have at least **one (1)** operable window. The total *openable 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 29-4-4. (IPMC 403.1)**

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 m²)**. The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

29-4-8 **BATHROOMS AND TOILET ROOMS.** Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by **Section 29-4-7**, 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. **(IPMC 403.2)**

Exception: This Section shall not apply to existing Non-Conforming Buildings or *Structures*.

29-4-9 **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. **(IPMC 403.3)**

Exception:

- (1) Where specifically *approved* in writing by the *Code Official*.
- (2) Devices such as coffee pots and microwave ovens shall not be considered cooking *appliances*.

29-4-10 **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. **(IPMC 403.4)**

29-4-11 **CLOTHES DRYER EXHAUST.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the *structure* in accordance with the manufacturer's instructions. **(IPMC 403.5)**

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

DIVISION IV - OCCUPANCY LIMITATIONS

29-4-12 **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. **(IPMC 404.1)**

29-4-13 **MINIMUM ROOM WIDTHS.** A habitable room, other than a kitchen, shall be a minimum of **seven (7) feet (2134 mm)** in any plan dimension. Kitchens shall have a minimum clear passageway of **three (3) feet (914 mm)** between counterfronts and appliances or counterfronts and walls. **(IPMC 404.2)**

Exception: This Section shall not apply to existing Non-conforming Buildings or *Structures*.

29-4-14 **MINIMUM CEILING HEIGHTS.** *Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of seven (7) feet (2134 mm). (IPMC 404.3)*

Exceptions:

(A) In one- and two-family dwellings, beams or girders spaced a minimum of **four (4) feet (1219 mm)** on center and projecting a maximum of **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 minimum ceiling height of **six (6) feet eight (8) inches (2033 mm)** with a minimum clear height of **six (6) feet four (4) inches (1932 mm)** 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 minimum clear ceiling height of **seven (7) feet (2134 mm)** over a minimum of **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 minimum clear ceiling height of **five (5) feet (1524 mm)** shall be included.

(D) This Section shall not apply to existing Non-Conforming Buildings or *Structures*.

29-4-15 **BEDROOM AND LIVING ROOM REQUIREMENTS.** *Every bedroom shall comply with the requirements of Sections 29-4-15(A) through 29-4-15(E). (IPMC 404.4)*

(A) **Room Area.** Every living room shall contain at least **one hundred twenty (120) square feet (11.2 m²)** and every *bedroom* shall contain a minimum of **seventy (70) square feet (6.5 m²)** and every *bedroom* occupied by more than one *person* shall contain a minimum of **fifty (50) square feet (4.6 m²)** of floor area for each *occupant* thereof. **(IPMC 404.4.1)**

(B) **Closet.** *Bedrooms* shall contain at least **one (1) closet** 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*. **(IPMC 404.4.2)**

Exception:

(1) Units that contain fewer than **two (2) bedrooms**.

(2) Non-conforming 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. **(IPMC 404.4.3)**

Exception: Non-conforming use.

(E) **Prohibited Occupancy.** Kitchens and non-habitable spaces shall not be used for sleeping purposes. **(IPMC 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 Article; 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**. **(IPMC 404.4.5)**

29-4-16 **OVERCROWDING.** *Dwelling units* shall not be occupied by more *occupants* than permitted by the minimum area requirements of **Table 29-4-16**. **(IPMC 404.5)**

**Table 29-4-16
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 29-4-15(A)		

For SI: 1 square foot = 0.093 m²

Note a. See Section 29-4-16(B) for combined living room/dining room spaces.

Note b. See Section 29-4-16(A) for limitations on determining the minimum *occupancy* area for sleeping purposes.

(A) **Sleeping Area.** The minimum *occupancy* area required by **Table 29-4-16** shall not be included as a sleeping area in determining the minimum *occupancy* area for sleeping purposes. All sleeping areas shall comply with **Section 29-4-15. (IPMC 404.5.1)**

Exception:

- (1) Non-conforming 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 29-4-16** 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. **(IPMC 404.5.2)**

29-4-17 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 m²)**. A unit occupied by not more than **two (2) occupants** shall have a minimum clear floor area of **two hundred twenty (220) square feet (20.4 m²)**. A unit occupied by **three (3) occupants** shall have a minimum clear floor area of **three hundred twenty (320) square feet (29.7 m²)**. These required areas shall be exclusive of the areas required by Items 2 and 3.

(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)**.

29-4-18 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. **(IPMC 404.7)**

ARTICLE V - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS**DIVISION I - GENERAL**

29-5-1 **SCOPE.** The provisions of this Article shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided. **(IPMC 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 Article. **(IPMC 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. **(IPMC 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*. **(IPMC 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. **(IPMC 503.1)**

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. **(IPMC 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. **(IPMC 504.1)**

29-5-8 **FIXTURE CLEARANCES.** Plumbing fixtures shall have adequate clearance for usage and cleaning. **(IPMC 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. **(IPMC 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*. **(IPMC 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. **(IPMC 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. **(IPMC 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 **one hundred ten (110°F) (43°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, discharge pipe within **six (6) inches** of floor. **(IPMC 505.4) (IRC P2803.6)**

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 floor. **(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. **(IPMC 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 defeats. **(IPMC 506.2)**

29-5-18 **GREASE INTERCEPTORS.** Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and manufacture'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*. **(IPMC 506.3)**

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. **(IPMC 507.1)**

ARTICLE VI - MECHANICAL AND ELECTRICAL REQUIREMENTS**DIVISION I - GENERAL**

29-6-1 **SCOPE.** The provisions of this Article shall govern the minimum mechanical and electrical facilities and *equipment* to be provided. **(IPMC 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 Article. **(IPMC 601.2)**

DIVISION II - HEATING FACILITIES

29-6-3 **FACILITIES REQUIRED.** Heating facilities shall be provided in *structures* as required by this Division. **(IPMC 602.1)**

29-6-4 **RESIDENTIAL OCCUPANCIES.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of **sixty-eight degrees Fahrenheit (68°F) (20°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. **(IPMC 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 expressed 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 degrees F. (68°F) (20°C)** in all habitable rooms, *bathrooms*, and *toilet rooms*. **(IPMC 602.3)**

29-6-6 **INSTALLATION OF MATERIALS.** All materials used shall be installed in strict accordance with the standards under which the materials are accepted and *approved*. In the absence of such installation procedures, the manufacturer's instructions shall be followed. Where the requirements of referenced standards or manufacturer's instructions do not conform to minimum provisions of this Code, the provisions of this Code shall apply. **(IRC G2415.1)**

29-6-7 **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. **(IPMC 602.5)**

DIVISION III - MECHANICAL EQUIPMENT

29-6-8 **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. **(IPMC 603.1)**

29-6-9 REMOVAL OF COMBUSTION PRODUCTS. All fuel-burning *equipment* and *appliances* shall be connected to an *approved* chimney or vent. **(IPMC 603.2)**

Exception: Fuel-burning *equipment* and *appliances* which are *labeled* for unvented operation.

29-6-10 CLEARANCES. All required clearances to combustible materials shall be maintained. **(IPMC 603.3)**

29-6-11 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)**

29-6-12 SAFETY CONTROLS. All safety controls for fuel-burning *equipment* shall be maintained in effective operation. **(IPMC 603.4)**

29-6-13 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*. **(IPMC 603.5)**

29-6-14 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*. **(IPMC 603.6)**

DIVISION IV - ELECTRICAL FACILITIES

29-6-15 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.** **(IPMC 604.1)**

29-6-16 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 **one hundred (100) amperes.** **(IPMC 604.2)**

29-6-17 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. **(IPMC 604.3)**

DIVISION V - ELECTRICAL EQUIPMENT

29-6-18 **INSTALLATION.** All electrical *equipment*, wiring and *appliances* shall be properly installed and maintained in a safe and *approved* manner. **(IPMC 605.1)**

29-6-19 **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)** ground-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 receptacles outlets shall have the appropriate faceplate cover for the location. **(IPMC 605.2)**

- (A) *Bathrooms* within **six (6) feet** of water source.
- (B) Kitchens within **six (6) feet** of water source.
- (C) All outside receptacles shall be weather proof and GFCI.

29-6-20 **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 **15 V** shall have ground fault circuit interrupter protection. **(IPMC 605.4)**

29-6-21 **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. **(IPMC 605.4)**

DIVISION VI – DUCT SYSTEMS

29-6-22 **GENERAL.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function. **(IPMC 607.1)**

ARTICLE VII - FIRE SAFETY REQUIREMENTS

DIVISION I - GENERAL

29-7-1 **SCOPE.** The provisions of this Article shall govern minimum conditions and standards for fire safety relating to *structures* and exterior *premises*, including fire safety facilities and *equipment* to be provided. **(IPMC 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. **(IPMC 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*. **(IPMC 702.1)**

29-7-4 **AISLES.** The required width of aisles in accordance with the *International Fire Code* shall be unobstructed. **(IPMC 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*. **(IPMC 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. **(IPMC 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 199. 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. **(IPMC 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. **(IPMC 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*. **(IPMC 704.1)**

(A) **Automatic Sprinkler Systems.** Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25. **(IPMC 704.1.1)**

29-7-11 **SMOKE ALARMS.** Single- or multiple-station smoke alarms shall be installed and maintained in *Groups R* or I-1 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 and *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. **(IPMC 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.

29-7-13 **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. **(IPMC 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.

29-7-14 **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. (Public Act 94-741)

ARTICLE VIII

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 that reference the standard. The application of referenced standards shall be as specified in **Section 29-1-11**.

ASME **American Society of Mechanical Engineers**
Three Park Ave
New York, NR 10016-5990

Standard reference number	Title	Referenced in code Section Number
A17.1/CSA B44-2007	Safety Code for Elevations 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
 6th 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 Protection Systems.....	704.1.1
70-11	National Electrical Code	102.4, 201.3, 604.2

ARTICLE IX – REGISTRATION AND MAINTENANCE OF VACANT STRUCTURES AND PROPERTIES

29-9-1 DEFINITIONS. For the purposes of this Article, the following words and phrases shall have the meanings set forth below:

Nuisance: Vacant, unused, or unoccupied buildings and structures within the City, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing, or open doors, windows, or other openings, so that the same may be used by vagrants or other persons in a manner detrimental to the health and welfare of the inhabitants of the City.

Owner: Every person, entity or service company who alone or jointly or separately with others:

(A) Have a legal or equitable title to any dwelling, dwelling unit, building, land or structure; or

(B) Has care, charge, or control of any dwelling, dwelling unit, building, land or structure in any capacity, including but not limited to executor, administrator, trustee or guardian of the estate of the holder of legal title; or

(C) Is a mortgagee under the terms of a mortgage, where the mortgagor is no longer taking responsibility for the property, and where the mortgage in question contains a provision authorizing the mortgagee to act to secure or repair the property; or

(D) Is a mortgagee in possession of any such property; or

(E) Is a mortgagee that has instituted foreclosure proceedings against the mortgagor;

or

(F) Is a trustee or other person appointed by the courts invested with possession or control of any such property.

Responsible Party: Includes owners, tenants, occupiers, property managers, lessees or agents.

Statement of Intent: A form completed by the owner, as defined, of a vacant structure or responsible party which contains specific information regarding the structure and the owners' plans for rehabilitation, maintenance, demolition and/or removal.

Structure: Any physical object or edifice that is built or installed and is located on and affixed to the land. The term "structure" shall include any part of a structure.

Substantial Rehabilitation: Any rehabilitation, the cost of which exceeds **fifty percent (50%)** of the market value of the existing structure.

Vacant: Vacant means a structure that is:

(A) Lacking the habitual presence of human beings, who have a legal right to be on the premises for **sixty (60) consecutive days**, or;

(B) A structure at which substantially all lawful business or construction activity or residential occupancy has ceased, or;

(C) Which is substantially devoid of contents, or;

(D) A multi-family residential property containing **ten (10)** or more dwellings units when **ninety percent (90%)** of the dwelling units are unoccupied.

For the purposes of this Article, exceptions to the definition of vacant shall be made for single-family homes or owner-occupied two-family properties that have been used as a residence by the owner for a period of at least **five (5) months** within the previous **twelve (12) months** and the owner intends to resume residing at the property, and for those properties which are under active, ongoing rehabilitation or reconstruction and have a building permit from the City.

Vacant Structure Maintenance Standards: The maintenance standards, to which the vacant structures are subject under this Article, are set forth in the International Property Maintenance Code as adopted by the City Council, and all other applicable building and zoning ordinances of the City, as amended from time to time.

Vacant Structure Registration Certificate: Document issued by the City for structures meeting the definition of "vacant structure."

29-9-2 ENFORCEMENT AUTHORITY. The City Building Official is authorized to administer and enforce the provisions of this Article, including, but not limited to, maintaining lists setting forth the status of vacant structures. The City Building Official may delegate his/her powers and duties to an appropriate designee or inspector.

29-9-3 RESPONSIBLE PARTIES; LIENS. Every responsible party with respect to any vacant property shall be jointly and severally liable with every other responsible party for the obligations set forth in this Article. In reference to an owner in this Article shall include all responsible parties. All fees, costs and charges assessed or incurred by the City shall constitute a lien on the real estate upon which such vacant structure is situated.

29-9-4 OBLIGATIONS OF OWNERS OF VACANT STRUCTURES.

(A) Within **thirty (30) days** of a structure becoming vacant, as defined herein, the owner of the structure shall apply for a vacant structure registration certificate and pay a fee of **Twenty-Five Dollars (\$25.00)**. If the structure is still vacant at the time of expiration of the original vacant structure registration certificate (**six (6) months** as defined below), the owner shall immediately apply to renew the certificate. At the City's sole discretion, renewal may be had upon demonstrated need for a maximum of **three (3) six (6) month** periods, for an aggregate maximum of **twenty-four (24) months** total vacancy registration. Renewed permits shall be subject to all conditions and obligations imposed by this Article on the initial certificate, including the payment of a **Twenty-Five Dollar (\$25.00)** fee at each renewal. It shall be the responsibility of the registered owner to file an amended registration within **ten (10) days** of any changes contained in the initial application, including occupancy or transfer. During the period of registration, the owner shall provide access to the City to conduct inspections of the structure, both interior and exterior if deemed necessary by the City, and, following reasonable notice, to determine compliance with this Article and any other relevant codes and ordinances of the City.

(B) The owner of a vacant structure shall comply with all regulations of the City. To this end, the owner shall apply for all building, fire prevention and zoning permits necessary to bring the structure into compliance within **ten (10) days** of obtaining a vacant structure registration certificate.

(C) The owner of a vacant structure shall, within **ten (10) days** of receipt of the vacant structure registration certificate, complete the removal of all:

- (1) Combustible materials from the structure in compliance with the applicable fire prevention regulations;
- (2) Waste, rubbish or debris from the interior of the structure; and
- (3) Waste, rubbish, debris, or excess vegetation including grass in excess of **eight (8) inches** from the yards surrounding the vacant structure in accordance with the International Property Maintenance Code as adopted by the City Council and all other City Codes.

(D) The owner of a vacant structure shall immediately lock, barricade or secure all doors, windows and other openings in the structure to prohibit entry by unauthorized persons, in accordance with the vacant structure maintenance standards of this Article. The owner shall, as needed, provide additional security in the event of increased danger to human life of the public welfare, as determined by the City.

(E) The obligations of the owner of a vacant structure are continuing obligations which are effective throughout the time of the vacancy as that term is defined in this Article.

29-9-5 VACANT STRUCTURE REGISTRATION CERTIFICATE.

(A) Application by the owner of a vacant structure for a vacant structure certificate shall be made on a form provided by the Public Works Department.

(B) The application shall include a "statement of intent" which will set forth information as to:

- (1) The expected period of vacancy (including the date of initial vacancy);

- (2) The plan (including timeline) for regular maintenance during the vacancy to comply with the vacant structure maintenance standards of this Section and all of the applicable property maintenance, building and zoning codes of the City;
- (3) A plan and timeline for the lawful occupancy, rehabilitation, removal or demolition of the structure;
- (4) Measures/plans (including timelines) to be taken to ensure that the structure will be kept weather tight and secure from trespassers and that it will be safe for entry by police officers, firefighters and code or building inspectors in time of exigent circumstances or emergency as well as at times of reasonable inspection;
- (5) Measures (and timeline) to be taken to assure that the premises remain free from nuisance conditions and in good order in conformance with the vacant structure maintenance standards; and
- (6) List all persons authorized to be present in the structure and provide notices of trespass to the police authorizing the arrest for trespass of individuals not on the list. (The owner shall update the authorized person list as needed.)

(C) No vacant structure registration certificate shall be effective for more than **six (6) months** from the date of issuance. Only **three (3) six (6) month** renewals at the Building Official's sole discretion, upon demonstrated need, may be allowed as above or as otherwise allowed pursuant to a waiver request provided herein.

29-9-6 VACANT STRUCTURE MAINTENANCE STANDARDS. A vacant structure shall be subject to the following vacant structure maintenance standards in addition to the applicable provisions of the Property Maintenance Code and the applicable building and zoning codes of the City:

(A) **Structure Openings.** Doors, windows, areaways and other openings shall be weather tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials, which are weather protected, and tightly fitted and secured to the opening.

(B) **Roofs.** The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the structure.

(C) **Drainage.** The structure storm drainage system shall be functional and installed in a manner consistent with City ordinances and allow discharge in a manner consistent with City ordinances.

(D) **Structure.** The structure shall be in good repair, not in violation of City ordinances, structurally sound and free from debris, rubbish and garbage. The structure shall be sanitary. The structure shall not pose a threat to the public health and safety.

(E) **Structural Members.** The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.

(F) **Foundation Walls.** The foundation walls shall be structurally sound and in a sanitary condition so as not to pose a threat to public health and safety. The walls shall be capable of supporting the load of normal use and shall be free from open cracks and breaks, free from leaks, and be rodent proof.

(G) **Exterior Walls.** The exterior walls shall be free of holes, breaks and loose or rotting materials. Exposed metal, wood, or other surfaces 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.

(H) **Decorative Features.** The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood or other surfaces 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.

(I) **Overhanging Extensions.** All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces 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.

(J) **Chimneys and Towers.** Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces 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.

(K) **Walkways.** Walkways shall be safe for pedestrian travel.

(L) **Accessory and Appurtenant Structures.** Accessory and appurtenant structures such as garages, sheds and fences shall be free from safety, health and fire hazards and shall comply with City ordinances.

(M) **Premises.** The premises upon which the structure is located shall be clean, safe and sanitary. It shall be free from waste, rubbish, debris or excessive vegetation in compliance with City ordinances and shall not pose a threat to the public health or safety.

29-9-7 **VACANT STRUCTURE REGISTRATION CERTIFICATE FEE.** The vacant structure registration certificate application fee of **Twenty-Five Dollars (\$25.00)** shall also be charged upon application for certificate renewal. The fee shall be paid at the time of application or renewal.

29-9-8 **REQUIRED LIABILITY INSURANCE.** It shall be the responsibility of the owner or owner's agent to maintain liability insurance on all vacant and registered properties under their control. Proof of evidence of such insurance shall be filed with the City.

Minimum insurance amounts are as follows:

(A) Residential properties of one or two units: \$250,000.00.

(B) Residential properties of three or more units: \$500,000.00.

(C) Commercial, manufacturing, storage or any nonresidential property: \$1,000,000.00.

29-9-9 **ENFORCEMENT AND PENALTIES.**

(A) Any person found to be in violation of any provision of this Article shall be subject to a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)**. Each day that said violation continues shall be considered a new and separate violation. Prosecution under this Section is a remedy cumulative to any and all other remedies at law and equity, including but not limited to the City's remedies under the Illinois Municipal Code.

(B) All fees, costs or charges assessed or incurred by the City pursuant to this Article shall be a lien upon the real property. The lien shall be superior to all subsequent liens and encumbrances. The City Attorney shall file a notice of lien, within **two (2) years** after such cost and expense is incurred, in the office of the Williamson County Clerk and Recorder. The lien may be enforced by proceeding to foreclose, as in case of mortgages or mechanic's liens.

(C) Unless otherwise granted a waiver as provided herein, at the expiration of **twenty-four (24) months** from the original issuance of the vacant structure registration certificate, the structure must be reoccupied, removed or demolished. Any structure which is vacant beyond the **twenty-four (24) month** maximum registration period shall be considered abandoned and a public nuisance and the City may pursue whatever legal action is afforded to it by law for the removal and/or abatement of public nuisance.

29-9-10 **REQUEST FOR WAIVER.** Any owner of a vacant residential property of one or two units, who is a natural person with insufficient income or resources to fulfill all of the obligations imposed herein, may petition the City for a waiver of the registration or re-registration fee, a reduction of the minimum amount of liability insurance, and/or a waiver of some or all of the property rehabilitation requirements (hereinafter "financial requirements") under this Article. Application for a waiver of financial requirements shall be in writing on forms provided by the City. The decision of the City Administrator, to be made within **fourteen (14) days** of receiving the petition, shall be made in writing and shall forthwith be mailed or delivered to the petitioner. An appeal of the decision may be made to the City Council, in writing, within **fourteen (14) days** of the mailing or delivery of the decision. Individuals who are granted a waiver under this Section are still obligated to keep the registered property secure and safe, and the exterior property areas free from debris, with grass regularly mowed.

(Ord. No. 1-2024; 01-08-24)

APPENDIX "A"

FILING FEES

The property maintenance fees for this Chapter shall be as follows:

(A) Inspection Permit Fee of **One Hundred Dollars (\$100.00)** shall be paid prior to the City conducting an inspection of a multi-family rental structure. 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 **Fifty Dollars (\$50.00)** 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**.

(C) Inspection Permit Fee of **Fifty Dollars (\$50.00)** 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**. If the manufactured home is located in another city or site, the applicant may be assessed a mileage charge plus **Thirty Dollars (\$30.00)** per hour from portal to portal by the City of Carlinville.

(D) A copy of an existing Certificate of Occupancy shall be a fee of **Twenty Dollars (\$20.00)**.

(E) 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.

(F) A re-inspection fee of **Fifty Dollars (\$50.00)** shall be paid when initial inspection fails to 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.

(G) All fees shall be non-refundable.

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CHAPTER 30

PUBLIC SAFETY

ARTICLE I - CIVIL EMERGENCY

30-1-1 **DEFINITIONS.**

"CIVIL EMERGENCY" is hereby defined to be:

- (A) A "riot or unlawful assembly" characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or
- (B) Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the City resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

"CURFEW" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 **DECLARATION OF EMERGENCY.** Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

30-1-3 **CURFEW.** After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the City or to the City as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

30-1-4 **AUTHORITY OF MAYOR TO ISSUE ORDERS.** After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

- (A) Order the closing of all retail liquor stores including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.
- (B) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.
- (C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (D) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.
- (E) Issue such other orders as are imminently necessary for the protection of life and property.

30-1-5 **EFFECTIVENESS.** The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

30-1-6 **NOTIFICATION.** Upon issuing the proclamation herein authorized, the Mayor shall notify the news media situated within the City and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the City:

- (A) The City Hall.
- (B) The Post Office.
- (C) The Police Station or Fire Department.

(65 ILCS 5/11-1-6)

ARTICLE II - POLICE DEPARTMENT

DIVISION I- ORGANIZATION

30-2-1 **DEPARTMENT ESTABLISHED.** There is hereby created and established a Police Department, which shall consist of the Chief of Police, and other police officers and employees as may be provided for by the City Council.

30-2-2 **POLICE CHIEF.** There is hereby created the position of Police Chief, who shall be appointed by the Mayor with the advice and consent of the City Council. Appointments to the Police Department and promotions shall be made by the Mayor, with the advice and consent of the City Council, from the eligibility list compiled by the Board of Fire and Police Commissioners.

30-2-3 **DUTIES OF THE POLICE CHIEF.** The Chief of Police shall be responsible for the enforcement of all laws and ordinances within his legal jurisdiction, and for the planning, directing, coordinating and staffing of all activities of the Department, for its continued and efficient operation, and for its relations with the citizens of Herrin, and other agencies.

The Chief of Police shall be responsible for the supervision and performance of all officers and employees who may be assigned to the Police Department in all matters of policy and operation. The Chief of Police shall promulgate rules and regulations for the guidance of the officers and all other employees of the Department.

30-2-4 **DUTIES OF OFFICERS.** Every person who holds the position of police officer is hereby declared to be a conservator of the peace and all officers shall be responsible to enforce all City ordinances and all state and federal laws, and to maintain order and prevent infractions of the laws.

30-2-5 **PROPERTY.** The Chief of Police shall be the custodian of all lost, abandoned, and confiscated property within the City. He shall also serve as custodian of all property provided by the City for use by the Department.

30-2-6 **RECORDS.** The Chief of Police shall be responsible for the preparation and maintenance of all records which may be required by local, state, and federal agencies.

30-2-7 **WITNESS FEES.** Any member of the Police Department shall appear as a witness whenever it is necessary in a prosecution for a violation of law. Police Officers shall not retain any witness fee for their appearance as a witness in any matter in which the City is a party, and any fees paid shall be turned in to the Chief of Police, who shall deposit the fees with the City Treasurer.

30-2-8 **SERVICE OF PROCESS.** Every police officer shall have, at the direction of the Chief of Police, authority to serve all warrants, writs, summons, and other process for violation of this Code and other state and federal laws within the corporate limits of the City.

30-2-9 **AUXILIARY POLICE.** The creation of auxiliary police officers in the Police Department is hereby approved. The number and supervision of auxiliary police officers in the Police Department shall be at the direction of the Police Chief. Auxiliary police officers in the City shall not be considered conservators of the peace. Auxiliary police officers shall be permitted to carry firearms upon meeting all training requirements of the State of Illinois. **(Ord. No. 38-2006; 11-13-06)**

30-2-10 PART TIME POLICE OFFICERS.

(A) The Mayor is authorized to employ part-time police officers (See also Section 15-2-1(D) of this Code). Part-time police officers shall be members of the regular police department, except for pension purposes.

(B) Any person employed as a part-time police officer must meet the following standards:

- (1) Be at least **twenty-one (21) years** of age.
- (2) Have a valid high school diploma or G.E.D.
- (3) Have a current and valid Illinois Driver's License.
- (4) Reside in a home both (a) within a **ten (10) mile** radius of the intersection of Park Avenue and Walnut Street in Herrin, Illinois, and (b) within the borders of Williamson County, Illinois.
- (5) Have no prior felony convictions or convictions for crimes involving domestic violence.

(C) The number of hours a part-time police officer may work within a calendar year shall be restricted.

(D) Part-time police officers shall not be assigned under any circumstances to supervise or direct full-time police officers of the police department.

(E) Part-time police officers shall not be used as permanent replacements for permanent full-time police officers.

(F) Part-time police officers shall be trained under the Intergovernmental Law Enforcement Officer's In-Service Training Act (**50 ILCS 720/1 et seq.**) in accordance with the procedures for part-time police officers established by the Illinois Law Enforcement Training Standards Board, and they shall be qualified to enter and successfully complete any training mandated by the Illinois Law Enforcement Training Standards Board.

(G) Any part-time police officer hired after **January 1, 1996** who has not yet received certification under Section 8.2 of the Illinois Police Training Act shall be directly supervised.

(Ord. No. 9-2012; 05-14-12)

30-2-11 TAKE HOME VEHICLES.

(A) Take home vehicles are issued based upon a need for a timely response to a police incident. Such vehicles are provided to enhance effectiveness, unit efficiency and to provide better service to the community and the Herrin Police Department. Persons issued take home vehicles are expected to have a high level of responsiveness to Police Department needs beyond normal work hours.

(B) Unless otherwise specified in a contract or labor agreement, take home vehicles will only be used by members of the Herrin Police Department while such members are on duty. Members of the Herrin Police Department may not use Police Department vehicles for purposes of transporting any persons other than individuals being transported as part of the services normally provided by the Herrin Police Department. Vehicles may not be driven by anyone not employed by the City.

(C) Unless otherwise specified in a contract or labor agreement, take home vehicles are only authorized for personal uses which are incidental to coming and going from work.

(Ord. No. 32-2013; 10-14-13)

(Ord. No. 6-2004; 02-23-04)

ARTICLE III - FIRE DEPARTMENT

DIVISION I - DEPARTMENT ESTABLISHED

30-3-1 **ESTABLISHMENT.** There is hereby created and established a Fire Department, consisting of a Fire Chief and such assistant chiefs and members of said Fire Department as may from time to time be appointed by the Mayor with the consent of the Council.

30-3-2 **SUPERVISION OVER DEPARTMENT - EQUIPMENT.** The Fire Chief shall have the control, subject to the order and direction of the City Council, of the Fire Department and all fire apparatus belonging to the City.

30-3-3 **COMMAND AT FIRES.** In case of fire, the Fire Chief and his assistants shall rank in the order named and the officer of the highest rank at the fire shall take command of the Fire Department and direct the management thereof for the suppression of the fire in the best manner possible; and when it may be necessary for the protection of other property and to prevent the spread of the conflagration, the officer in command may cause buildings to be removed, torn down or destroyed in the best manner possible.

30-3-4 **RECORDS.** The Fire Chief shall keep or cause to be kept a record of all activities of the department and of all fires occurring in the City, with information as to the cause and the estimated damage done.

30-3-5 **DUTIES.** It shall be the function and duty of the Fire Department and every member thereof to extinguish accidental or destructive fires, to prevent the occurrence or spread of such fires.

30-3-6 **OBEDIENCE TO ORDERS.** All firemen in attendance at a fire shall obey the orders of the officer in command at such fire and failure to do so may subject the fireman to disciplinary action.

30-3-7 **ENFORCEMENT OF CODE.** It shall be the duty of all officers of the Fire Department and all police officers of the City to see that the provisions of this Chapter are enforced and to arrest on view any person who shall be found violating any of the provisions of this Chapter or who shall hinder, resist or refuse to obey any such officer in the discharge of his duty, and to that end, all such officers are hereby vested with the usual power and authority of police officers.

30-3-8 **AUXILIARY FIREMEN.** The Chief of the Fire Department of the City shall be and is hereby authorized to engage the services of auxiliary firemen as the need arises in his sound judgment and he is further authorized to provide for their reasonable compensation.

30-3-9 **RATE.** The rate for service outside the corporate limits in neighboring unincorporated areas shall be the sum of **One Thousand Dollars (\$1,000.00)** for each call. Such fee shall be paid to the Chief of the Fire Department and all fees so paid shall be used for the maintenance of the Fire Department. **(Ord. No. 38-85; 08-26-85)**

30-3-10 EXTRICATION AND RESCUE EQUIPMENT.

(A) Any non-resident of the City who receives service from the City Fire Department personnel and City emergency equipment, including the "jaws of life", while within the corporate limits of the City shall pay a fee pursuant to Federal Emergency Management rates.

(B) Any non-resident of the City who receives service from the City Fire Department personnel and City emergency equipment, including the "jaws of life", outside the corporate limits of the City shall pay a fee pursuant to Federal Emergency Management rates.

(C) Copies of reports of the providing of the services indicated in this Section hereof shall be made available by the Fire Department upon payment of a fee pursuant to the Freedom of Information Policy in Chapter 22 – Mandated Policies.

30-3-11 HAZARDOUS MATERIAL FEES - FIRE DEPARTMENT.

(A) **Removal.** The City 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) **Contracting for Special Services.** Should such response require the services of special personnel and equipment beyond the capabilities of the City Fire Department to provide, the Chief of the Fire Department is authorized to obtain or to contract for services of personnel or equipment sufficient to contain, remove and dispose of such hazardous materials.

(C) **Cost of Services.** 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) **Charges.** 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 pursuant to the rates established by the Federal Emergency Management Agency.

30-3-12 MABAS AGREEMENT. The Mutual Aid Box Alarm System Master Agreement, (Approved by the MABAS Executive Board October 19, 2022) is hereby approved, and the Mayor and the Clerk be and are hereby authorized and directed to execute the Mutual Aid Box Alarm System Master Agreement, a copy of which is attached hereto as **Appendix "A"** and made a part hereof. **(Ord. No. 26-2022; 11-14-22)**

30-3-13 - 30-3-15 RESERVED.

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 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.

(20 ILCS 3305/1 et seq.)

APPENDIX "A"

MUTUAL AID BOX ALARM SYSTEM
AGREEMENT

This Agreement by and among the units of federal, state and local government, and other non-governmental emergency response organizations, subscribed hereto, hereafter referred to as "Units", or "Parties" is made and entered into the date set forth next to the signatures of those authorized to execute this Agreement on behalf of the respective parties, each Party having approved this Agreement and adopted same pursuant to their state's constitutional and statutory authority and in a manner provided by law. In order to provide efficient and effective management of this Agreement, groups of the parties may be established as "Chapters" on a state-by-state basis and Chapters may include parties from adjoining states.

WHEREAS, the Mutual Aid Box Alarm System (MABAS) was formally organized beginning in 1968 in the northwest and western suburbs of Chicago, Illinois to coordinate and automate fire department mutual aid based roughly on the Chicago Fire Department's box alarm system, whereby predetermined resources of personnel and fire equipment were assigned to respond to a specific incident or area; and

WHEREAS, MABAS has grown into a multi-state organization through prearranged mutual aid and dispatch agreements that coordinate responses to emergencies and disasters including fires, emergency medical calls, hazardous material incidents, water related rescues, and technical rescues, and MABAS is designed to facilitate all levels of mutual aid from day-to-day automatic aid responses to major incidents and disasters requiring significant deployment of resources; and

WHEREAS, since the last revision of the master MABAS intergovernmental agreement circa 1988, MABAS has grown exponentially to its current composition of almost 1,200 Illinois Units and 2,200 total Units in Illinois and several nearby States with Units ranging from all-volunteer fire departments to major cities like Chicago, Milwaukee, and St. Louis; and

WHEREAS, the Constitution of the State of Illinois, 1970, Article VII, Section 10, authorizes units of local government to contract or otherwise associate among themselves, with the State, with other States and their units of local government, and with the United States to obtain and share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or ordinance; and to further contract or otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or ordinance; and to further contract or otherwise associate with individuals, associations, and corporations in any manner not prohibited by law; and

WHEREAS, the Illinois "Intergovernmental Cooperation Act", 5 ILCS 220/1 et seq., provides that any power or powers, privileges or authority exercised, or which may be exercised by a unit of local government may be exercised and enjoyed jointly with any other unit of local government including units of local government from another state; and

WHEREAS, Section 5 of the Illinois "Intergovernmental Cooperation Act", 5 ILCS 220/5, provides that any one or more public agencies may contract with any one or more public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract; and

WHEREAS, the Indiana Code at Section 36-1-7 (IC 36-1-7) authorizes an Indiana political subdivision to enter into a mutual aid agreement with political subdivisions of states other than Indiana, provided the agreement contains the necessary terms and conditions set out in IC 36-7-3, is approved by the Indiana Attorney General as required under IC 36-1-7-4, is recorded with the county recorder and filed with the Indiana State Board of Accounts as required under IC 36-1-7-6; and

WHEREAS, for the purposes of Chapter 3 of Indiana Emergency Management and Disaster law, the term "political subdivision" means city, town, township, county, school corporation, library district, local housing authority, public transportation corporation, local building authority, local hospital or corporation, local airport authority or other separate local governmental entity that may sue and be sued. (See IC 10-14-3-6, IC 36-1-2-13, IC 36-1-2-10, IC 36-1-2-11, IC 36-1-2-18); and

WHEREAS, the Indiana Code at Section 10-14-6.5 (IC 10-14-6.5) authorizes the State of Indiana and local units of government to enter into agreements to provide interstate mutual aid for emergency responses that do not rise to the level requiring a state or local declaration of a state of emergency or disaster; and

WHEREAS, Chapter 28E of the State Code of Iowa provides that any powers, privileges or authority exercised or capable of exercise by a public agency of the State of Iowa may be exercised and enjoyed jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment (See 28E.3); and

WHEREAS, the State Code of Iowa, in Chapter 28E, authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract (See 28E.12); and

WHEREAS, for the purposes of Chapter 28E of the State Code of Iowa, the term "public agency" means any political subdivision of the State of Iowa; any agency of Iowa's government or of the United States; and any political subdivision of another state (See 28E.2); and

WHEREAS, the Constitution of the State of Michigan, 1963, Article VII, Section 28, authorizes units of local government to contract as provided by law; and

WHEREAS, the Urban Cooperation Act of 1967, 19067 PA 7, MCL 124.501, *et seq.*, provides that any political subdivision of Michigan or of another state may enter into interlocal agreements for joint exercise of power, privilege, or authority that agencies share in common and might each exercise separately; and

WHEREAS, Minnesota Statute 471.59 authorizes two or more governmental units, by agreement entered into through action of their governing bodies, to jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised; and

WHEREAS, the term "governmental unit" in Minnesota Statute 471.59 includes every city, county, town, school district, and other political subdivision of this or another state; another state; the University of Minnesota; licensed nonprofit hospitals; and any agency of the state of Minnesota or the United States. The term also includes any instrumentality of a governmental unit if that unit has independent policy-making and appropriating authority; and

WHEREAS, Article VI, Section 16 of the Constitution of Missouri and Sections 70.210, 70.320, and 70.220.1, of the Revised Statutes of Missouri, provide that any municipality or political subdivision of the state of Missouri may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or their municipalities or political subdivisions, or with the United States, to provide a common service as provided by law so long as the subject and purpose of such are within the scope of the powers of such municipality or political subdivision; and

WHEREAS, for the purposes of Sections 70.210, 70.320, and 70.220.1 of the Revised Statutes of Missouri, "municipality" means municipal corporations, political corporations, and other public corporations and agencies authorized to exercise governmental functions; and "political subdivision" means counties, townships, cities, towns, villages, school, county library, city library, city-county library, road, drainage, sewer, levee and fire districts, soil and water conservation districts, watershed subdistricts, county hospitals, and any board of control of an art museum, and any other public subdivision or public corporation having the power to tax; and

WHEREAS, Title LV, Section 5502.291 of the Ohio Revised Code authorizes the governor to enter into mutual aid arrangements for reciprocal emergency management aid and assistance with other states and to coordinate mutual aid plans between political subdivisions, between the State of Ohio and the United States; and

WHEREAS, Sections 66.0301 and 66.0303, Wisconsin Statutes, authorize municipalities to contract with municipalities of another state for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by state to the extent that laws of the other state or of the United States permit the joint exercise; and, jointly exercise powers delegated to them and, thereby, to make certain agreements concerning boundary lines between themselves; and

WHEREAS, for the purposes of Subchapter III of Chapter 66 of the Wisconsin Statutes, the term "municipality" includes political subdivisions, which refers to any city, village, town, or county in this state or any city, village, town, county, district, authority, agency, commission, or other similar governmental entity in another state; (See Wis. Stat. 66.0303(1), 66.0304(1)(f)); and

WHEREAS, similar provisions providing for intergovernmental cooperation exist in the other states in which any Party to this Agreement resides, and which provide legal authority for each respective party to enter into the Agreement; and

WHEREAS, the Parties have determined that it is in their best interests to enter into this Agreement to secure to each the benefits of mutual aid in fire protection, suppression, provision of rescue and emergency medical assistance, hazardous materials control, technical rescue, training and any other emergency support for the protection of life and property in the event of an Emergency, Disaster, or other Serious Threat to Public Health and Safety, and to engage in Training and other preparedness activities in furtherance of the foregoing mutual aid activities; and

NOW, THEREFORE, in consideration of the mutual covenants and understandings set forth in this Agreement, and pursuant to the authority bestowed upon the Parties set forth above, it is agreed by, among and between the parties as follows:

SECTION ONE - PURPOSE

It is recognized and acknowledged that leveraging collective resources from other Units to provide effective, efficient response to Emergencies, Disasters, or Serious Threats to Public Safety is desired. Further, it is acknowledged that the closest available Unit(s) that can render aid may be outside of a requesting Unit's or Chapter's jurisdiction. Accordingly, it is the express intent of the Parties that this agreement be in a standardized form which can be adopted by Units in different States, notwithstanding this Agreement may not specifically cite the applicable current legal authority for a particular State and its member Units to join MABAS, the lack of such citation herein shall not be construed in any manner as an impediment to or prohibition of Units within other States from joining MABAS, it being the express intent of the parties that each Unit desiring to join MABAS may

become additional Parties hereto by adopting this Intergovernmental Agreement without modification. In this fashion by way of this Agreement, the parties will have created a mutual aid agreement that incorporates emergency response disciplines from federal, state and local governmental units, as well as non-governmental organizations and corporations that provide emergency response functions and services that support the mission of MABAS and its member Units.

SECTION TWO – RULES OF CONSTRUCTION AND DEFINITIONS

1. The language in this Agreement shall be interpreted in accordance with the following rules of construction: (a) the word "may" is permissive and the word "shall" is mandatory; and (b) except where the context reveals the contrary; the singular includes the plural and the plural includes the singular, and the masculine gender includes the feminine and neuter.
2. When the following words in bold font with the first letter in the upper case are used in this Agreement, such words shall have the meanings ascribed to them in this Subsection:
 - A. **"Agreement"** means the Master Mutual Aid Box Alarm System Agreement.
 - B. **"Aiding Unit"** means any Unit furnishing equipment, Emergency Responders, or Emergency Services to a Requesting Unit under this Agreement.
 - C. **"Automatic Mutual Aid"** or **"Auto-Aid"** means the provision of mutual aid through a prearranged plan between Units whereby assistance is provided at the time of dispatch without a specific request from an Incident Commander.
 - D. **"Box Alarm"** means a prearranged plan for an Emergency or Disaster that uses a defined process for implementation, dispatch and response.
 - E. **"Chapter"** means a group of Divisions, established on a state-by-state basis, and whose members may include Units from other States.
 - F. **"Chapter Governing Board"** means the governing body of a Chapter which is composed of a representative of each member Division or Region within a Chapter as provided by the Chapter's Bylaws.
 - G. **"Chapter President"** means a person elected as the President of each state Chapter.
 - H. **"Chief Officer"** means the Fire Chief or agency head of a Unit, or a designee of the Unit's Fire Chief or agency head.
 - I. **"Council of Chapter Presidents"** means the council or board whose members shall be the elected President of each State's Chapter, as set forth in this Agreement.
 - J. **"Disaster"** means an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including fire, severe weather event, environmental contamination, utility failure, radiological incident, structural collapse, explosion, transportation accident, hazardous materials incident, epidemic, pandemic, or similar calamity.
 - K. **"Division"** means geographically associated Units which have been grouped for operational efficiency and representation within a State and may include units from adjoining States.
 - L. **"Emergency"** means any occurrence or condition which results in a situation where assistance is requested to supplement local efforts and capabilities to save lives, protect property and protect the public health and safety, or to lessen or avert the threat of a catastrophe or Disaster or other Serious Threat to Public Health and Safety.
 - M. **"Emergency Responder"** includes any person who is an employee or agent of a Unit. An Emergency Responder includes, without limitation, the following: firefighters (including full time, part time, volunteer, paid on-call, paid on-premises, and contracted personnel, as well as hazardous materials, specialized rescue, extrication, water rescue, and other specialized personnel), emergency medical services personnel, support personnel and authorized members of non-governmental response Units.
 - N. **"Emergency Services"** means provision of personnel and equipment for fire protection, suppression, provision of rescue and emergency medical services, hazardous materials response, technical rescue and recovery, and any other emergency support for the protection of life and property in the event of an Emergency, Disaster, or other Serious Threat to Public Health and Safety, and includes joint Training for the provision of any such services by the Units.
 - O. **"Incident Commander"** is the individual responsible for all incident activities, including the development of strategies and tactics and the ordering and the release of resources in the provision of Emergency Services, has overall authority and responsibility for conducting incident operations, and is responsible for the on-scene management of all incident operations.
 - P. **"Incident Command System"** means a standardized management system such as the National Incident Management System (NIMS), designed to enable effective and efficient incident management by integrating a combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure.
 - Q. **"MABAS"** means the Mutual Aid Box Alarm System described in the Agreement, and is an intergovernmental agency formed pursuant to the authority of the Illinois Intergovernmental Cooperation Act and similar intergovernmental cooperation authority of other states in which Units reside.
 - R. **"Mutual Aid"** is assistance from an Aiding Unit to a Requesting Unit as the result of an Emergency or other even and may precede the request for a Box Alarm and includes Automatic Mutual Aid.
 - S. **"Requesting Unit"** means any Unit requesting assistance of another Unit under this Agreement.
 - T. **"Serious Threat to Public Health and Safety"** means threats, incidents or planned events of sufficient magnitude that the adequate public safety response requires mutual aid or other assistance.
 - U. **"Training"** means the instruction and/or assessment of Emergency Services during non-emergency drills and instruction whether in the field or classroom.
 - V. **"Unit"** (also "Member Unit") means components of federal, state or local government, or other non-governmental emergency response organizations who have become parties to this Agreement.

SECTION THREE - AUTHORITY AND ACTION TO EFFECT MUTUAL AID

The Parties hereby authorize and direct their respective Chief Officer, or designee, to take reasonably necessary and proper action to render and request Mutual Aid to and from the other Parties to this Agreement, and to participate in Training activities, all in furtherance of effective and efficient provision of Mutual Aid pursuant to this Agreement.

In accordance with a Party's policies and within the authority provided to its Chief Officer, upon an Aiding Unit's receipt of a request from a Requesting Unit for Emergency Services, the Chief Officer, or the Chief Officer's designee such as the ranking officer on duty, may commit the requested Mutual Aid in the form of equipment, Emergency Responders, and Emergency Services to the assistance of the Requesting Unit. All aid rendered shall be to the extent of available personnel and equipment taking into consideration the resources required for adequate protection of the territorial limits of the Aiding Unit. The decision of the Chief Officer, or designee, of the Aiding Unit as to the personnel and equipment available to render aid, if any, shall be final.

SECTION FOUR - JURISDICTION OVER PERSONNEL AND EQUIPMENT

Emergency Responders dispatched to aid a Requesting Unit pursuant to this Agreement shall, at all times, remain employees or agents of the Aiding Unit, and are entitled to receive any benefits and compensation to which they may otherwise be entitled under the laws, regulations, or ordinances of the United States of America, their respective States, and their respective political subdivisions. This includes, but is not limited to, benefits for pension, relief, disability, death, and workers' compensation. If an Emergency Responder is injured or killed while rendering assistance under this Agreement, benefits shall be afforded in the same manner and on the same terms as if the injury or death were sustained while the Emergency Responder was rendering assistance for or within the Aiding Unit's own jurisdiction.

Emergency Responders of the Aiding Unit will come under the operational control of the Requesting Unit's Incident Commander, or other appropriate authority, until released. The Aiding Unit shall, at all times, have the right to withdraw any and all aid upon the order of its Chief Officer, or designee. The Aiding Unit shall notify the Incident Commander of the extent of any withdrawal or coordinate the withdrawal to minimize jeopardizing the safety of the operation or other Emergency Responders.

If for any reason an Aiding Unit determines that it cannot respond to a Requesting Unit, the Aiding Unit shall promptly notify the Requesting Unit of the Aiding Unit's inability to respond; however, failure to promptly notify the Requesting Party of such inability to respond shall not be deemed to be noncompliance with the terms of this Section and no liability may be assigned. No liability of any kind shall be attributed to or assumed by a party, for failure or refusal to render aid, or for withdrawal of aid.

SECTION FIVE - COMPENSATION FOR AID

Nothing herein shall operate to bar any recovery of funds from any third party, state or federal agency under any existing statutes, or other authority. Each Aiding Unit is responsible for the compensation of its Emergency Responders providing Mutual Aid and for any additional costs incurred to ensure its jurisdiction has adequate resources during the rendering of Mutual Aid.

Day-to-day Mutual Aid should remain free of charge and the administrative requirements of reimbursement make it infeasible to charge for day-to-day Mutual Aid. However, the following exceptions may be applied:

1. Third party Reimbursement – Expenses for Emergency Services recoverable from third parties shall be proportionally distributed to all participating Units by the Unit recovering such payment from a third party. The Unit responsible for seeking payment from a third party shall provide timely notice to Aiding Units of a date by which submission of a request for reimbursement must be received. Reimbursement shall be based on the accurate and timely submission of allowable costs and documentation attributable to the incident by each Aiding Unit. These costs include manpower, use of equipment and materials provided, and damage or loss of equipment. The Unit recovering payment from a third party shall notify Aiding Units that such payment has been made and will reimburse the other Units. If the third-party payment is less than the full amount of all Units' cost submittals, the funds shall be proportionally distributed based on each Units' submitted costs compared to the total of all costs submitted. Intrastate Emergency Management Agency Tasking – Expenses recoverable related to a response to an emergency or disaster at the request of a state's emergency management agency or authority. Reimbursement shall be based on the accurate and timely submission of allowable costs and documentation attributable to the response by each Aiding Unit. These costs include manpower, use of equipment and materials provided, and damage or loss of equipment. The Unit recovering payment from a state shall notify Aiding Units that such payment has been made and will reimburse the other Units. If the payment is less than the full amount of all Units' cost submittals, the funds shall be proportionally distributed based on each Unit's submitted costs compared to the total of all costs submitted.

2. Interstate Emergency Management Assistance Compact ("EMAC") Response – Expenses recoverable related to a response to an emergency or disaster at the request of a state's emergency management agency or authority to another state. Reimbursement shall be based on the accurate and timely submission of allowable costs and documentation attributable to the response by each Aiding Unit. These costs include manpower, use of equipment and materials provided, and damage or loss of equipment. If these payments are not made directly to the participating Units, the Unit recovering payment from a state shall notify Aiding Units that such payment has been made and will reimburse the other Units. If the payment is less than the full amount of all Units' cost submittals, the funds shall be proportionally distributed based on each Unit's submittal costs compared to the total of all costs submitted.

3. Emergency Medical Services Billing – Member Units providing Mutual Aid under this Agreement may bill patients for emergency medical services in accordance with applicable federal, state, and local ambulance billing regulations.

SECTION SIX - INSURANCE

Each party shall procure and maintain, at its sole and exclusive expense, insurance coverage, including comprehensive liability, personal injury, property damage, worker's compensation, auto, and, if applicable, watercraft, aircraft, drones, or emergency medical service professional liability, with minimum policy limits of:

Auto liability:	\$1,000,000 combined single limit
General liability:	\$1,000,000 per occurrence
Emergency Medical Service Professional Liability:	\$1,000,000 per occurrence
Workers' Compensation:	Statutory limits

The obligations of this Section may be satisfied by a Party's membership in a self-insurance pool, a self-insurance plan, or arrangement with an insurance provider approved by the state of jurisdiction. To the extent permitted by governing law of the state in which a Party resides, each party agrees to waive subrogation rights it may acquire, and to require any insurer to waive subrogation rights they may acquire, by virtue of the payment of claims, suits, or other loss arising out of this Agreement, and shall, as to any insurer, obtain any endorsement necessary to effectuate such waiver of subrogation.

SECTION SEVEN – LIABILITY

Each party will be solely responsible for the acts of its own governing body, officers, employees, agents, and subcontractors, expressly including, but not limited to, all of its Emergency Responders, the costs associated with those acts, and the defense of those acts. No Party shall be responsible to another Party for any liability or costs arising from the act of an employee or agent of another Party. Each party hereto shall hold other Parties hereto harmless for any liability or costs arising from the act of an employee or agent of another party. The Provisions of this Section shall survive the termination of this Agreement by any Party.

Any Party responding under this Agreement to another state shall be considered agents of the Requesting Unit in the other state for tort liability and immunity purposes related to third-party claims to the extent permissible under the laws of both states. Nothing in this Section shall be deemed a waiver by any party of its right to dispute any claim or assert statutory and common law immunities as to third parties.

SECTION EIGHT – CHAPTERS

For operational efficiency and representation of Units and Divisions, Chapters are hereby created on a state-by-state basis. Chapters shall elect a President to the Council of Chapter Presidents. When a Division forms within a state that does not have a Chapter, that Division will be affiliated with another state Chapter. When three Divisions within a state become organized, a Chapter for that state shall automatically be created, and Divisions within that state shall be transitioned to the new Chapter, unless prohibited by state statute(s).

Chapters shall have their own governing Board selected by the Units, Divisions, or Regions, and shall determine the number and role of Chapter officers. Chapters shall develop bylaws that provide for their governance and operations within the framework of this Agreement and the direction of the Council of Chapter Presidents. Chapters shall maintain authority to establish Divisions or Regions, to the assignment of Units to Divisions or Regions, and to establish emergency response procedures, protocols, resources, and training requirements. Chapters and their Divisions may fix and assess dues, secure appropriate insurance, own and maintain facilities, vehicles, apparatus and equipment, employ and provide benefits for personnel, operate specialized response teams, participate in EMAC activities, enter into agreements with other governmental and non-governmental entities, and administer the affairs of their Chapter, to facilitate the purposes of MABAS.

SECTION NINE – COUNCIL OF CHAPTER PRESIDENTS

A Council of Chapter Presidents is hereby created that consists of the elected President of each state Chapter. The Council of Chapter Presidents shall facilitate coordination among state Chapters, adopt bylaws for the operation of the Council of Presidents, ensure compliance with this Agreement, recommend common operating procedures and practices, recommend changes to this Agreement, and promote unity to facilitate the purposes of MABAS. MABAS and the Council of Chapter Presidents shall be hosted by the founding Chapter of MABAS, Illinois, and shall be based therein. As the Council is hosted in Illinois, all issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Illinois.

SECTION TEN – DIVISIONS

For operational efficiency and representation of Member Units, Divisions are hereby authorized on a Chapter-by-Chapter basis in accordance with procedures established by their Chapter. When a Division forms within a state that does not have a Chapter, that Division will be affiliated with another state Chapter in accordance with procedures established by that other state's Chapter.

Divisions shall have their own governing Board, shall determine the number and role of Division officers, and shall develop bylaws that govern their operations within the framework of this Agreement and direction of the Chapter and Council of

Chapter Presidents. Divisions shall maintain authority to establish emergency response procedures, protocols, resources, and training requirements within the framework of this Agreement and the direction of the Chapter and Council of Chapter Presidents. Divisions may fix and assess dues, secure appropriate insurance, own and maintain facilities, vehicles, apparatus and equipment, employ and provide benefits for personnel, operate specialized response teams, enter into agreements with other governmental and non-governmental entities, and administer the affairs of their Division, to facilitate the purposes of MABAS.

SECTION ELEVEN - TERM

This Agreement shall be in effect for a term of one year from the date of signature hereof and shall automatically renew for successive one-year terms unless terminated in accordance with this Section. Any party may terminate their participation within this Agreement, at any time, for any reason or for no reason at all, upon ninety (90) days written notice to the applicable state Chapter. A Unit that terminates this Agreement must return any asset that is owned by, or provided from, a Chapter or its Divisions prior to the termination of the Agreement, unless agreed to otherwise in writing by the Chapter or Division. Costs associated with the recovery or replacement of said asset if it is not voluntarily returned after written notice has been given shall be borne by the departing Unit, including reasonable legal fees.

SECTION TWELVE – MISCELLANEOUS

A. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning and not construed strictly for or against any Party. By signing this agreement, each of the Parties affirm that they have taken all actions and secured all local approvals necessary to authorize and sign this Agreement.

B. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of any successor entity which may assume the obligations of any Party hereto.

C. **Severability of Provisions.** If a Court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, then that provision shall be deemed severed from this Agreement. The remainder of this Agreement shall remain in full force.

D. **Captions.** The captions, heading, and titles in this Agreement are intended for the convenience of the reader and not intended to have any substantive meaning and are not to be interpreted as part of this Agreement.

E. **Terminology.** All terms and words used in this Agreement, regardless of the numbers or gender in which they are used, are deemed to include any other number and any other gender as the context may require.

F. **Recitals.** The Recitals shall be considered an integral part of this Agreement.

G. **No Third-Party Beneficiaries.** Except as expressly provided herein, this Agreement does not create, by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right of indemnification (i.e., contractual, legal, equitable, or by implication), right of subrogation as to any Party's rights in this Agreement, or any other right of any kind in favor of any individual or legal entity.

H. **Counterpart Signatures.** This Agreement may be signed in multiple counterparts. The counterparts taken together shall constitute one (1) agreement.

I. **Permits and Licenses.** Each Party shall be responsible for obtaining and maintaining, throughout the term of this Agreement, licenses, permits, certificates, and governmental authorizations for its employees and/or agents necessary to perform their obligations under this Agreement.

J. **No Implied Waiver.** Absent a written waiver, no fact, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.

K. **Notices.** Notices given under this Agreement shall be in writing and shall be delivered by one or more of the following processes: personally delivered, sent by express delivery service, certified mail, or first-class U.S. mail postage prepaid to the head of the governing body of the participating agency.

SECTION THIRTEEN – AMENDMENT

An amendment may be proposed by any Party, Division or Chapter, and be presented to the Council of Chapter Presidents for review, comment, and modification. The Council of Chapter Presidents shall, after consideration, recommend final amendatory language to all Parties for adoption and execution. The Agreement may be amended only upon written agreement and approval of the governing bodies of two-thirds (2/3) of the Parties. All amendments to this Agreement shall comply with the applicable laws of the respective states.

SECTION FOURTEEN – REVOCATION OF PRIOR AGREEMENTS

This Agreement shall replace all prior Mutual Aid Box Alarm System agreements effective at 12:01 A.M. Central Standard Time on January 1, 2024, and in accordance with the laws of their respective states. Any member Unit that has not become a Party to this Agreement by 12:01 A.M. Central Standard Time on January 1, 2024, shall no longer be affiliated with MABAS in any capacity, shall not continue to benefit from its prior association with MABAS, and shall not rely on the MABAS system for emergency

responses, until subsequently rejoining MABAS by the adoption of an approving ordinance or resolution and entering into this Agreement, as may be amended from time to time. The effective date for any new Member Unit joining after January 1, 2024, shall be the date set forth next to the signature of that new Member Unit.

Any MABAS owned assets in the possession of a Unit that fails to execute this Agreement shall return said assets to MABAS no later than January 31, 2024. Costs associated with the recovery or replacement of said asset shall be borne by the Unit failing to execute this Agreement, including reasonable legal fees.

SECTION FIFTEEN - APPROVAL

This Agreement may be executed in multiple originals. The undersigned attests that they have the authority to execute this Agreement which has been approved by appropriate ordinance, resolution or authority and is hereby adopted by the City of Herrin (Unit) this 14th day of November, 2022. A certified copy of approving ordinance, resolution or authority, along with the executed Agreement shall be forwarded to the applicable state Chapter, and a master list of Parties shall be kept by the Council of Chapter Presidents.

(Ord. No. 326-2022; 11-14-22)

CHAPTER 33 - STREET REGULATIONS

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CHAPTER 33

STREET REGULATIONS

ARTICLE I – DEPARTMENT ESTABLISHED

33-1-1 DEPARTMENT ESTABLISHED. There is hereby established a Department of the municipal government which shall be known as the **Street Department**. It shall embrace the Street Committee, the Superintendent, and the employees. The City Engineer shall serve as ex-officio officer.

33-1-2 COMMITTEE ON STREETS. The City Council Standing Committee on Streets shall exercise a general supervision over the affairs of the Street Department. It shall ascertain the needs and conditions thereof and shall, from time to time, report the same to the Mayor and City Council.

ARTICLE II - GENERAL REGULATIONS

33-2-1 UNDERMINING. No person shall undermine in any manner, any street or any other ground or real estate situated in the City or belonging to any private person.

33-2-2 OPEN DOORS. No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the City for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

33-2-3 REPAIRING SIDEWALKS, ETC. Whenever any sidewalk, pavement, or cellar door on the same becomes worn out or out of repair, or is torn up or broken and uneven, it shall be the duty of the Street Superintendent to immediately report such fact to the Mayor or Street and Alley Committee, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay.

33-2-4 STAIRWAY - RAILING. Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

33-2-5 CLOSING STREET. Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

33-2-6 **SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the City, unless he has written approval of the City Council. **(65 ILCS 5/11-80-17)**

33-2-7 **VEHICLES AND SKATEBOARDS ON SIDEWALKS.** No person shall operate any skateboard or motor vehicle on or over any sidewalk, except in crossing the same to go into a yard or parking lot.

33-2-8 **DEPOSITS ON SIDEWALKS AND STREETS.** It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four (4) feet**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes**.

33-2-9 **OBSTRUCTING STREET.**

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the City, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(65 ILCS 5/11-80-3)**

33-2-10 **RAINWATER DRAINS.** It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the City Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Superintendent and no such permit shall be issued unless he shall have found that the City Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm water drain or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the City.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the City and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement.

33-2-11 **BUILDING MATERIALS IN STREET.** The Street Superintendent may move any obstruction on any street or sidewalk of the City, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(65 ILCS 5/11-80-3)**

33-2-12 **MERCHANDISE ON PUBLIC STREETS/SIDEWALKS.** It shall be unlawful for any person to utilize any street, sidewalk or other public way for the exhibit or display of any goods or merchandise for sale, or for any reason, or to write or make any signs or advertisement on any such

pavements. The City Council may, upon request, grant permission for sidewalk sales and display of

merchandise upon a public way associated with a City festival. The prohibition set forth in this Section does not prohibit deliveries as permitted in **Section 33-2-8** hereinabove. (**Ord. No. 35-01; 09-24-01**)

33-2-13 **ENCROACHMENTS.** It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-14 **POSTING BILLS.** It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

33-2-15 **SIGNS ON POLES.** No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

33-2-16 **INJURY TO NEW PAVEMENTS.** It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

33-2-17 **BARBED-WIRE FENCES.** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **three (3) feet** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **eight (8) feet** above the level of such public place.

33-2-18 **BURNING ON PUBLIC STREETS.** It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

33-2-19 **GRASS MOWING.** Property owners and/or their tenants shall be jointly and separately responsible for mowing the grass or weeds between the property lines and the adjoining street surfaces. The height of the grass or weeds shall not exceed **eight (8) inches**.

ARTICLE III - TREES AND SHRUBS

33-3-1 **PLANTING.** It shall be unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the City Clerk 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 **UNLAWFUL TO PLANT TREES AND SHRUBBERY.** It shall be unlawful for any person or persons, firm or corporation to plant or cause to be planted in any parkway within the City, any tree or shrub less than **three (3) feet** from the outer line of the sidewalk. No tree shall be planted in parkways or streets at a distance less than **twenty-five (25) feet** from any cross or intersecting street or alley.

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 City Clerk 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 any 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 less a height 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 Commissioner 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 Commissioner 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.

(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.** This Article supersedes all Articles or parts of Articles adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(G) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(H) **Sound Engineering Judgment.** The City shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

33-4-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

"AASHTO": American Association of State Highway and Transportation Officials.

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

"Backfill": The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring": To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable Operator": That term as defined in 47 U.S.C. 522(5).

"Cable Service": That term as defined in 47 U.S.C. 522(6).

"Cable System": That term as defined in 47 U.S.C. 522(7).

"Carrier Pipe": The pipe enclosing the liquid, gas or slurry to be transported.

"Casing": A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"City": The City of Herrin.

"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.

"Code": The Municipal Code of the City of Herrin.

"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.

"Director of Public Works": City Director of Public Works or his or her designee.

"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 Director of Public Works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

"Highway Code": The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

"Highway": A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

"Holder": A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

"Jacking": Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting": Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use": The use of pole lines, trenches or other facilities by two or more utilities.

"J.U.L.I.E.": The Joint Utility Locating Information for Excavators utility notification program.

"Major Intersection": The intersection of two or more major arterial highways.

"Occupancy": The presence of facilities on, over or under right-of-way.

"Parallel Facility": A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Parkway": Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut": The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee": That entity to which a permit has been issued pursuant to **Sections 33-4-4 and 33-4-5** of this Article.

"Practicable": That which is performable, feasible or possible, rather than that which is simply convenient.

"Pressure": The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

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

"Prompt": That which is done within a period of time specified by the City. If no time period is specified, the period shall be **thirty (30) days**.

"Public Entity": A legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Restoration": The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

"Right-of-Way" or "Rights-of-Way": Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. "Right-of-way" or "rights-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

"Roadway": That part of the highway that includes the pavement and shoulders.

"Sale of Telecommunications at Retail": The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

"Security Fund": That amount of security required pursuant to **Section 33-4-10**.

"Shoulder": A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

"Sound Engineering Judgment": A decision(s) consistent with generally accepted engineering principles, practices and experience.

"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 Engineer or Director of Public Works, 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 City Engineer or Director of Public Works 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 and the Metropolitan Water Reclamation District [other local or state entities with jurisdiction], 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 fee in the amount of **Two Hundred Dollars (\$200.00)**. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act. (**Ord. No. 11-2018; 05-14-18**)

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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works shall reject such application in writing, stating the reasons therefor. If the City Engineer or Director of Public Works is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the City Engineer or Director of Public Works 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 City Engineer or Director of Public Works, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

(B)
Retailers.**Additional City Review of Applications of Telecommunications**

- (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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works, 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works.
- (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 Engineer or Director of Public Works, 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 Engineer or Director of Public Works.
- (4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highest is closed to traffic. If a variance to the limitation set forth in this paragraph is permitted under **Section 33-4-21**, the following requirements shall apply:
- (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 Engineer or Director of Public Works.
- (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either

the temporary repair or the restoration shall be rebuilt upon notification by the City.

- (c) All saw cuts shall be full depth.
- (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.

(5) **Encasement.**

- (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.
- (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
- (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.
- (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
- (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair and
 - (ii) cathodic protection of the pipe is provided;
- (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.

(6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Electric Lines	30 inches (0.8m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6m, as Determined by City)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B)

Standards and Requirements for Particular Types of Facilities.**(1) Electric Power or Communication Lines.**

(a) **Code Compliance.** Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.

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

(c) Underground Facilities.

(i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.

(ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:

a. the crossing is installed by the use of "moles", "whip augers", or other approved method which compress the earth to make the opening for cable installation or

b. the installation is by the open trench method which is only permitted prior to roadway construction.

(iii) Cable shall be grounded in accordance with the National Electrical Safety Code.

(iv) **Burial of Drops.** All temporary service drops placed between **November 1** of the prior year and **March 15** of the current year, also known as snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within **ten (10) business days** after placement.

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

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

(b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;

(c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or

(d) tunneling with vented encasement, but only if installation is not possible by other means.

- (3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City

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

- (4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- (5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current “Standard Specifications for Water and Sewer Main Construction in Illinois”.
- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Engineer or Director of Public Works. With the approval of the Engineer or Director of Public Works, 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 City Engineer or Director of Public Works. 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 Engineer or Director of Public Works when emergency work is required to restore vital utility services.

- (3) Unless otherwise permitted by the City, the hours of construction are those set forth in **Chapter 25** of this Code.

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

33-4-17 **VEGETATION CONTROL.**

(A) **Electric Utilities - Compliance with State Laws and Regulations.** An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

(B) **Other Utilities - Tree Trimming Permit Required.** Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing the same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

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

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

(C) **Specimen Trees or Trees of Special Significance.** The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

(D) **Chemical Use.**

- (1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.
- (2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works. 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

(B) **Authority to Grant Variances.** The City Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works 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 City Engineer or Director of Public Works under the provisions of this Article shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Council's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The City Council shall timely decide the appeal.

33-4-22 **PENALTIES.** Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

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.

(Ord. No. 14-2017; 07-24-17)

ARTICLE V - IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** No sidewalk shall be built above or below the established grade of this 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 Committee of the City Council.

(B) **Permit.** It shall be unlawful for any person, company, partnership, or individual 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 a permit from the City Clerk to do so.

(C) **Street Committee.** All such structures or improvements made in the City shall be made under and through the cooperation and direction of the Street Committee of the City, 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, and who agrees to pay the cost of the material, the City shall provide the labor for the construction of the sidewalks, and the applicant shall file a written request with the City Clerk, giving the location of the property and the dimensions of the sidewalks requested. Upon approval of the request by the City Council, and the payment of the costs of the materials, the City shall construct the sidewalks. **(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 the street adjoining his premises shall file a request with the City Clerk, giving the location of the property and the length of the curb 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 curb and gutter will be constructed 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 is not applicable to new subdivisions.
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 Superintendent of the Water and Sewer Departments shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.

(C) **Permits.** Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Superintendent or his designated representative.

(D) **Requirements; Use of Storm Water Sewers.** Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the City. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to storm water sewer system.

(65 ILCS 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

33-6-2 **PERMIT FOR CULVERT.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the City Clerk.

33-6-3 **APPLICATION FOR PERMIT.** Any person desiring a permit to install or replace any culvert shall file an application therefor with the City Clerk upon a form to be provided for that purpose. The application and the permit issued pursuant thereto shall be on the same form which shall be substantially as outlined in **Appendix 'B'** attached hereto.

33-6-4 **TERMINATION OF PERMIT.** All such permits shall terminate upon the expiration of **one (1) year** following the date of issue.

33-6-5 **TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe (**Class IV**), or of such other material as determined by the Street Department, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Street Superintendent. The person desiring the culvert shall purchase a culvert as provided herein and shall have it delivered on the site. The City shall install the culvert.

33-6-6 **COST OF INSTALLATION.** Any person installing or replacing a culvert shall, at his own expense, construct and install drainage inlet boxes in such form and manner as the Street Superintendent determines necessary depending on the conditions existing.

33-6-7 **BACKFILL COST.** Any person installing or replacing a culvert shall, at his own expense, provide and place such backfill material as the Street Superintendent determines necessary to complete the project.

33-6-8 **REPLACEMENT COST.** The expense of replacing any culvert shall be borne by the person making application for the permit to install the same.

(65 ILCS 5/11-80-7)

ARTICLE VII - DRIVEWAYS

33-7-1 **PERMIT REQUIRED.** No person, firm or corporation shall construct a driveway for vehicles or animals across any sidewalk in the City without having first obtained a permit therefore.

Applications for such permits shall be made to the City Clerk and shall be accompanied by the fee required.

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 **MATERIALS.** Driveways across sidewalks shall be constructed of concrete or of such other material as may be approved by the City.

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

(65 ILCS 5/11-80-2)

ARTICLE VIII - SIGNS AND AWNINGS

33-8-1 PERMITS. No person, firm, or corporation shall erect or maintain any sign, signboard or rigid canopy over any street, alley, sidewalk or other public way in the City without having first obtained a permit therefore, as herein provided. Permits for such signs or canopies shall be issued by the City Clerk upon payment of the fee provided, and shall designate the location of the proposed structure. **(See Zoning Code)**

33-8-2 FEE. The annual fee for such permits shall be **Three Dollars (\$3.00)** for signs or canopies which extend less than **five (5) feet** over a street, sidewalk, alley or other public place and are less than **fifteen (15) square feet** in total area; and **Five Dollars (\$5.00)** for such signs as extend more than **five (5) feet** over a street, sidewalk or other public place or more than **fifteen (15) square feet** in total area. **(See Zoning Code)**

33-8-3 BOND. Each person or corporation maintaining such a sign or rigid canopy shall file with the Clerk a bond or indemnify policy in the sum of **Ten Thousand Dollars (\$10,000.00)**, conditioned to indemnify the Municipality for any loss or damage or liability that may result from the construction or maintenance of such sign or canopy. Such bond or policy shall have such sureties as may be approved by the Council. Provided that if a blanket indemnity insurance policy against any loss or liability due to such signs and canopies is secured by the Municipality, no such bond shall be required.

33-8-4 TEMPORARY PERMITS. Temporary permits may be issued for the maintenance of a temporary sign for a short time, not to exceed **three (3) weeks**, upon the payment of a fee of **Two Dollars (\$2.00)** for each week or fraction thereof that such sign is to be maintained.

33-8-5 CONSTRUCTION. All signs and canopies extending over any public sidewalk, street, alley or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from any other cause.

33-8-6 PERMIT PERIOD. The period for which permits required by this Article shall run shall be the same as the general license year.

33-8-7 HEIGHTS ABOVE WALK. The lowest part of any such sign, canopy, or of any non-rigid awning, or any support thereof which extends over any public way shall be at least **eight (8) feet** above the level of the walk or public way over which it extends; but no such sign shall be maintained over any public way used by vehicles if any part of its support or if the sign is less than **fifteen (15) feet** above the level of such public way.

33-8-8 INSPECTION. It shall be the duty of the Building Inspector to inspect, or cause to be inspected, every sign, canopy or awning which extends over any sidewalk, street, alley or other public way. If any such sign or canopy is found to be insecurely fastened, he shall report this fact to the owner of the sign or to the owner or occupant of the premises on which it is fastened. If the sign or canopy is not made secure within **ten (10) days** after such notice, it may be torn down by the Fire Department, on order of the Mayor.

ARTICLE IX - HOUSE NUMBERING

33-9-1 **HOUSE NUMBERING REQUIRED.** The base line for streets running north and south shall be the Illinois Central Railroad, and numbers lying north or south thereof shall be designated as north or south, as the case may be; the base line for streets running east and west shall be Park Avenue, and numbers lying east or west of this line shall be designated east or west, as the case may be. Numbering shall begin at the base line, Park Avenue, with the number **one hundred (100)** and **one hundred (100) units** shall be allowed for each block, and the first number on the opposite side of the first street north or south of the Illinois Central Railroad and paralleling it shall be numbered **one hundred (100)** and progress north and south therefrom at the rate of **one hundred (100) numbers** to each block; any houses situated on any parcel of land between the Illinois Central Railroad and the first street north or south and paralleling it shall be numbered from **one to one hundred (1 to 100)**, or as near thereto as can be.

33-9-2 **CHART.** The City Clerk shall keep a chart showing the proper street number of every lot in the City which shall be open to inspection by anyone interested.

33-9-3 **NUMBERS ON HOUSES.** It shall be the duty of the owners and occupants of every house in the City to identify each house or business with numbers at least **four (4) inches** in height, and which are visible from the street. Yard markers or sign posts with **four (4) inch** numbers are permissible.

Houses or businesses which are not easily visible from the street, because of distance or obstruction, shall have the identifying numbers at the entrance drive, within **fifteen (15) feet** of the drive. Mail boxes shall have numbers on both sides.

Multi-family housing which have a letter or number designation, in addition to the building address, shall have those designations marked clearly on the door. Mobile homes with a number or letter designation, in addition to a street address, shall have those designations clearly marked on the side of the mobile home facing the street or access drive.

Any person constructing a new site built home or business, or placing or relocating a mobile home or modular home, shall contact the 911 office for assignment of a locatable address number. Residents shall not use the number of an adjacent house as an address. **(Ord. No. 40-2005)**

ARTICLE X - MOVING BUILDINGS

33-10-1 **PERMIT REQUIRED.** No person, firm or corporation shall move any building on, through, or over any street, alley, sidewalk or other public place in the City without having obtained a permit therefor from the City Council. Applications for such permits shall be made in writing to the Clerk and shall state thereon the proposed route and the number of days it is intended that the building shall occupy any portion of any street, alley, sidewalk, or other public place.

33-10-2 **APPROVAL - FEE.** Upon approval of the intended route by the City Council, a fee of **Five Dollars (\$5.00)** for each day or fraction thereof that is intended that the building shall occupy any such portion of any such public place shall be paid to the Clerk and the permit issued. Additional payment of **Ten Dollars (\$10.00)** for each day or fraction thereof over and above the time stated on the permit during which any building shall occupy any such place shall be paid.

33-10-3 **BOND.** Every person, firm or corporation applying for a permit under this Article shall submit with his application, a cash bond with a lawful corporate surety to be approved by the City Council, conditioned on his compliance with all the provisions of this Article and agreeing to pay and holding the City harmless from any claim which may be made against it by reason of the occupation of any street, alley, sidewalk or other public place by the building or structure moved.

33-10-4 **LIGHTS AND WARNINGS.** Whenever a street or alley is blocked by a house or structure which is being moved, warnings to that effect shall be placed by the Police Department, so as to warn vehicles and persons from entering that portion of the street so blocked.

The person, firm or corporation moving any building through the streets, shall keep warning signs and lanterns or lights on such building so as to guard against any person or vehicle from colliding with it.

33-10-5 **WIRES - CUTTING.** Whenever it shall be necessary to interfere with wires or cables of a public utility in moving a building, the terms of any special or franchise ordinance governing shall apply and the bond therein specified shall be given. If no such terms apply, then the Mayor shall estimate the expense of fixing the wires and the bond to be given to cover such expenses.

ARTICLE XI - SNOW REMOVAL

33-11-1 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article.

"BUSINESS DAY" is any day not a Sunday or a National Holiday.

"BUSINESS DISTRICT" shall include all those areas zoned for business, commercial and industrial purposes in the Zoning Code and accompanying map as amended.

"BUSINESS HOURS" are the hours between **eight o'clock (8:00) A.M.** and **five o'clock (5:00) P.M.** on any business day.

"ROADWAY" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

"SIDEWALK" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

"STREET" or "HIGHWAY" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

33-11-2 **SNOW AND ICE TO BE REMOVED FROM SIDEWALKS BY PRIVATE PERSONS.**

(A) Every person, partnership, corporation, joint-stock company, or syndicate in charge or control of any building or lot of land within the City, fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away, or cause to be removed and cleared away, snow and ice from a path from so much of sidewalk as is in front or abuts on said building or lot of land. Snow and ice shall be so removed from sidewalks in all business districts within the City by **twenty-four (24) hours** after the cessation of any fall of snow, sleet or freezing rain. The path required to be cleared in the business district shall be **six (6) feet** in width, or the whole width of the sidewalk, whichever is smaller.

(B) However, in the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or entity charged with its removal shall, within the time mentioned in subsection (A) hereof, cause enough sand, cinders or other abrasive to be put on the sidewalk to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause a path in said sidewalk of at least **six (6) feet** in width to be thoroughly cleaned.

33-11-3 **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 curbs incident to the cleaning of sidewalks in business districts.

33-11-4 **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.

Any person or entity whose sidewalk is cleared pursuant to this Section shall reimburse the City for the costs of such clearing.

[Unless Otherwise Noted, this Article, Ord. No. 48-78; 12-26-78]

CITY OF HERRIN

UTILITY EXCAVATION PERMIT

(Ordinance #14-2017, 07-24-17)
(Not to exceed 1500 LF)

- Deposit: \$5,000 Date: _____
- Deposit: \$750.00 Date: _____
- Check _____ Cash

Make checks payable to "Herrin Water Department"
Public Works Director 618-942-7991
Operations Manager 618-942-2255
Water Distribution Manager 618-534-8746
Utility/Codes Inspector 618-201-2046

Permit # _____
Permit Fee: \$200.00 (Non-Refundable)
 Check _____ Cash
Date Paid: _____
Purpose: _____
Utility Type: Please circle one of the following
Fiber, CATV, Electric, Gas, Phone, Water, Sewer

OWNER INFORMATION		
Owner/Organization:	Contact Name:	Contact Phone #:
Mailing Address (Include Zip Code):		Business Phone #:
Email:		
24-hour Emergency Contact:	24-hour Phone #:	Proof of Insurance Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No

CONTRACTOR INFORMATION		
Contractor:	Contact Name:	Contact Phone #:
Mailing Address (Include Zip Code):		Business Phone #:
Email:		
24-hour Emergency Contact:	24-hour Phone #:	Proof of Insurance Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> On File

Plumber's Name: _____ Plumber's State License Number: _____

(Name of Applicant) (Mailing Address)

_____, _____, hereinafter termed the Permittee,
(City) (State & Zip)

request permission and authority to occupy, and to do certain work described on, the Street(s) and/or address known as

(address): _____ PIN# _____

From _____ to _____
(Start Location) (End Location)

The work is described in detail on the attached sketch or plans.

The sidewalk, street, and/or curb & gutter will be disturbed for this installation? Yes No

The work authorized by this permit shall be completed in compliance with attached Exhibit A.

Permit Acceptance and Liability Waiver (to be signed by authorized company representative)

I request permission to excavate and/or occupy the public right-of-way in the City of Herrin. For consideration of such permission, I agree to indemnify, hold harmless and defend the City of Herrin, its officers, agents and

employees, from any and all claims resulting from injuries, including death, damages or losses, including, but not limited to the general public, which may arise, or which may be alleged to have arisen out of, or in connection with such excavation and occupancy. I further agree to do all work in accordance with the conditions, regulations and city standards provided with this application. **A copy of this permit shall be available for review at the job site at all times when work is occurring in the right-of-way.**

Signature: _____ Date: _____
(Signature of authorized company representative)

City Comments/Requirements: _____

---- No excavation can begin until Pre-Excavation Approval ----

	Pre-Excavation Approval	Date	Post-Excavation Approval	Date
Water Dist. Manager	_____	_____	_____	_____
Utility/Codes Inspector	_____	_____	_____	_____

****To Arrange Pre and Post-Excavation Inspections, Please Call
Utility/Codes Inspector – Bret Childers 618-201-2046
bchilders@cityofherrin.com**

THIS FORM MUST BE PRESENT AT POST-EXCAVATION INSPECTIONS.

Refunds WILL NOT be processed until ALL DEPARTMENTS have given post-excavation approval on this form.

REFUND

PERMIT # _____ REFUND AMOUNT \$ _____ REFUND DATE _____

If project completion did not meet Inspector's approval amount of refund withheld _____

Notes:

EXHIBIT A

Any unapproved deviation from the approved drawings or general comments will be sufficient cause to have work stopped or reconstructed at the expense of the party or parties to whom the permit is issued. A copy of the permit is required on the job site at all times.

General Comments

No work shall be done when the City is closed for Holidays

1. The work authorized by this permit shall be completed in compliance with Exhibit A and City Ordinances #14-2017, 07-24-17.
2. The proposed utility should be located horizontally a minimum of five (5) feet away from any city owned underground utility (water, sanitary sewer, and storm sewer).

3. Where perpendicular crossings occur, the utility line should be installed beneath any city owned underground utility and any service lines or laterals. Where sanitary sewers are installed abnormally deep, the fiber optic line may be installed above the sewer with the superintendent's permission.
4. All pavement shall be saw cut one-foot past excavations which encroach into the roadway.
5. Roadway patches shall consist of IDOT approved CA-6 compacted backfill compacted in eight (8) inch lifts and eight (8) inches of IDOT approved 5-hour PCC pavement.
6. No excavation shall be left open overnight. Where unavoidable contractor shall install proper barricades and get City approval before leaving overnight.
7. Grassed areas shall be seeded and strawed within 10 days after excavation. Proper erosion control in place and maintained for duration of construction and/or until Utility Inspector deems necessary. As part of the reclamation Contractor shall remove JULIE flags from the site.
8. Permittee's contractors shall open sewer manholes and/or pothole sewers and watermains to locate utility depths prior to construction. Contractors shall make as much inspection as practical to locate sewer laterals and water services.
9. The City will not mark open ended culverts that can be seen from the surface.
10. No major location changes from the alignment proposed, such as changing which side of the road, will be allowed without prior approval from the City.
11. Contractor/utility is responsible for locating street rights-of-way lines, determining type of street right-of-way, determining property line locations, and if any private easements are necessary.
12. Contractor is responsible for all street/traffic light wiring locates and is responsible for any damage or liabilities incurred by any disruption of such.
13. Failure to comply with permit policy or city ordinances may result in loss of deposit and/or fines.
14. Deposit will be refunded only if work performed has been approved by Utility Inspector and/or Street, Water and Sewer Superintendents.
15. **Contractor will contact Utility/Codes Inspector within 24 hours of start of construction.**
16. **Contractor will contact Utility/Codes Inspector when job is complete.**
17. **All Contractors and Sub-Contractors shall clearly have company logos and markings on their work trucks and equipment.**

Locate Requirements:

In order to reduce the disruption and cost of utility damages occurring in the City's right-of-way and easements, the permit holder shall prevent damages to existing utilities caused by his work through field verification. In the case of open excavation, verification may be performed during the permit holder's work. In the case of directional drilling, verification shall take place prior to mobilization of the drilling equipment. The permit holder shall verify the location of existing utilities as needed to avoid conflict. Existing utilities shall be exposed using detection equipment or other acceptable means. Such methods may include but not limited to hand digging, soft digging, and pot holing. The excavator shall be held liable for damages caused to the City's infrastructure.

Permittee must submit detailed as-built plans as soon as construction is complete.

Our review does not include locations of other underground utilities other than those owned by the City. There may be other utilities in conflict with the proposed alignment. Also, our review is based on the best available information and is not represented as all-inclusive of City owned utilities or those owned by others. Permittee is responsible for any damage that may occur. Please notify the City as soon as any damage is known so that proper repair can be coordinated.

The proposed utility alignments are tentatively approved pending permittees representatives taking the actions and precautions as listed in this permit.

Additional Notes:

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

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CHAPTER 34

SUBDIVISION CODE

ARTICLE I – SCOPE AND PURPOSE

34-1-1 **TITLE.** This Code shall be known, referred to, and cited as "**The Subdivision Code**".

34-1-2 **SCOPE.** For the purpose of present and future development of the City and for the promotion of the public health, safety, comfort, morals and welfare of persons living within the territory governed, the provisions and regulations hereafter contained shall govern the subdividing and platting of lands lying within the corporate limits of the Municipality and within all unincorporated territory located within **one and one-half (1 1/2) miles** of the Municipality, as now or hereafter existing, except as otherwise provided in this Code. Within the area of jurisdiction of the City, the provisions of the Statutes of the State of Illinois are hereby adopted as part of the **Official Plan of the City**.

This Code prescribes procedures for the subdivision or resubdivision of land within the area of jurisdiction of the City and comprises the procedures, requirements, standards, and specifications with respect thereto.

(65 ILCS 5/11-12-9)

34-1-3 **PURPOSE.** In accordance with State law, this Chapter regulates the subdivision and development of land in order to assist in achieving the following specific objectives:

- (A) To preserve, protect, and promote the public health, safety and welfare;
- (B) To implement the **City Comprehensive Plan and the Official Map**;
- (C) To provide a pleasant living environment by furthering the orderly layout and development of land;
- (D) To avoid legal and other problems by requiring that subdivided land be properly monumented and recorded;
- (E) To conserve and increase the value of land, improvements, and buildings throughout the City;
- (F) To preserve the City's natural beauty and topography to the maximum feasible extent;
- (G) To protect against injury or damage caused by pollution, 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 insure the proper installation and maintenance of adequate water mains, sanitary sewers, storm water sewers, and other utilities and services; and
- (J) To insure that in conservation areas, adequate parks and similar facilities can be made available to serve the residents of new developments.

(65 ILCS 5/11-12-8 through 5/11-12-12; 765 ILCS 205/1, et seq.)

34-1-4 **INTERPRETATION.** This Code is intended as **Minimum Requirements** to provide for coordinated, efficient, and economic development of the City, to insure the adequacy of street and utility facilities, and to promote the public health, safety and welfare.

Thus, in accordance with State law, whenever this Chapter imposes higher standards than the County Subdivision Ordinance and the Plat Act, Chapter 109, the higher standards shall supersede the County regulations in the unincorporated territory located within the subdivision jurisdiction of the City.

34-1-5 APPLICATION OF CODE. No lot, tract, or parcel of land in a subdivision, as defined herein, may be conveyed unless a Final Plat of the property has been approved according to the requirements and provisions of this Code and recorded in the office of the County Recorder of Deeds, except in those instances listed in **Section 34-1-9** when subdivision plats will not be required.

34-1-6 SUITABILITY OF LAND FOR SUBDIVISION DEVELOPMENT. Land unsuitable for subdivision development due to drainage, flood hazard area, hillside area, rock formation or any other condition(s) constituting a danger to health, life or property shall not be approved for subdivision development unless the subdivider presents evidence or data satisfactory to the Plan Commission, establishing that the methods proposed to meet any such condition(s) are adequate to avoid any danger to health, life, or property.

34-1-7 RULES AND DEFINITIONS. The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

34-1-7.1 WORDS. Whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be construed as set forth in the definition thereof; and any word appearing in parentheses directly after a word herein defined shall be construed in the same sense as that word:

"ADMINISTRATOR". The Administrator or the person designated by the City Council to enforce and administer the provisions of this Code, or his duly appointed representative(s).

"AREA, GROSS". The entire area within the boundary lines of the territory proposed for subdivision, including the area to be dedicated for street and alley rights-of-way and public use.

"BARRIER (NATURAL OR ARTIFICIAL)". Any street, highway, river, pond, canal, railroad, levee, embankment or screening by a fence or hedge.

"COMMISSION." The Plan Commission of the City.

"COMPREHENSIVE PLAN". The Plan or any portion thereof adopted by the City for the coordinated physical development, including, among other things, plans and programs regarding the location, character and extent of highways, transportation routes, bridges, public buildings or uses, utilities, schools, residential, commercial or industrial land uses, parks, forests, dams, drainage facilities, and projects affecting the conservation of natural resources of the City.

"CUL-DE-SAC". A short, minor local street, having only **one (1)** end open for vehicular traffic, and the other end permanently terminated by a turnaround for vehicles.

"DESIGN". The arrangement of uses on the land and use of land for easements, lots and rights-of-way, including material, alignment, grade, and width of these elements.

"FLOOD HAZARD AREA". All land subject to periodic inundation from overflow or natural waterways when subjected to the maximum possible runoff from **three (3) inches** of rain per hour as calculated by approved engineering methods subject to periodic ponding.

"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 and storm water), 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.

"IMPROVEMENT PLAN". The engineering plans showing types of materials and construction details for the physical structures and facilities to be installed both in or in conjunction with the subdivision.

"LAND USE PLAN". The long-range plan for the desirable use of land in the City as officially adopted and as amended from time to time by the City Council or appropriate corporate authority.

"LOADING SPACE". An off-street space or berth on the same lot with a building, or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

"PARKING LANE". An auxiliary lane of a street used primarily for vehicular parking.

"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 **Article III** of this Code, and which plans shall conform to any requirements of the Plan Commission as to scale and details for submittal to the appropriate officials of the City for consideration, approval or disapproval.

"PLAT". The maps, drawings, charts, and other documents complying with all applicable provisions of this Code which constitute the plan for subdivision and which the subdivider submits to the City for consideration of approval.

"PLAT, FINAL". A plat prepared to the requirements of **Article IV** and if approved, will be submitted to the County Recorder of Deeds for recordation.

"PLAT, PRELIMINARY". A plat drawn upon tracing paper or other material from which reproduction can be made and conforming to the requirements of **Article II** of this Code.

"PREMISES". A lot, together with all the buildings and uses thereon.

"PUBLIC SEWER AND WATER FACILITIES". Those water and/or sewer facilities of the City, County, the State, the Federal and/or of a sanitary sewer district and/or privately-owned public facilities which comply with applicable public health standards.

"RE-SUBDIVISION". See **"SUBDIVISION"**.

"ROAD, COUNTY". A term denoting a tract of land which is used primarily for the purpose of vehicular movement and includes all of the facilities and improvements within the rights-of-way. This tract of land must have been presented to and accepted by the County Superintendent of Highways.

"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 which lies between the right-of-way lines.

"SETBACK LINE". The line parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

"STREET". A general term denoting a public or private way for the purpose of vehicular travel. The term includes all facilities which normally occur within the right-of-way; it shall also include such other designation for a street as a highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place, drive, court, or as otherwise designated, but excluding an alley or a way for pedestrian use only.

"STREET, ARTERIAL". A street designed or utilized primarily for high vehicular speeds and heavy volumes of traffic on a continuous route, with intersections at grade, and which may have direct access to abutting properties, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

"STREET, COLLECTOR". 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.

"STREET, LOCAL". A street used primarily for access to abutting properties, providing for minimum speeds and traffic volumes.

"STREET, MARGINAL ACCESS OR SERVICE ROAD". A local street parallel and adjacent to arterial streets providing access to abutting properties.

"SLOPE". The degree of natural inclination of the existing ground.

"STRUCTURE". Anything constructed which requires permanent or temporary location on the ground or is attached to something having a permanent or temporary location on the ground.

"STUB". A street that is temporarily terminated, but that is planned for future continuation.

"SUBDIVIDE". See **"SUBDIVISION"**.

"SUBDIVIDER". Means 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 herein defined.

"SUBDIVISION". The division of land into **two (2)** or more lots or parcels for the purpose of either immediate or future sale, rental, or building development, or any other uses, or the 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.

"SUBDIVISION, MINOR". A division of land into **two (2)**, but not more than **four (4) lots**, all of which front upon an existing street, not involving any new streets or other rights-of-way, easements, improvements, or other provisions for public areas and facilities.

"TOPOGRAPHY". The relief features or surface configuration of an area of land.

"TRAVEL WAY". That portion of a street used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

"VACATE". To terminate the legal existence of right-of-way or subdivision, and to so note on the final plat recorded with the County Recorder of Deeds.

"VARIANCE, SUBDIVISION". A relaxation in the strict application of the design and improvement standards set forth in this Chapter.

34-1-8 **ADOPTION BY REFERENCE.** All definitions not otherwise noted contained in the Zoning Code and The Revised Code of Ordinances are hereby adopted by reference.

34-1-9 **SUBDIVISION PLATS WILL NOT BE REQUIRED.** The provisions of these regulations do not apply and no subdivision plat is required in any of the following instances, provided, however, all of the resulting divisions shall conform to the Zoning Code:

- (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;
- (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;
- (C) The sale or exchange of parcels of land between owners of adjoining and contiguous land;
- (D) The conveyance of parcels of land or interests therein for use as a right-of-way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;
- (E) The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;
- (F) Conveyances made to correct descriptions 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 existing on **July 17, 1959**, and not involving any new streets or easements of access, provided, however, a plat of survey shall be prepared by a registered surveyor and submitted to the Plan Commission;
- (H) The sale of a single lot of less than **five (5) acres** from a larger tract when a plat of a survey is made by a registered surveyor; provided 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 on **October 1, 1973**, and provided also that this exemption does not invalidate any local requirements applicable to the subdivision of land; and
- (I) The division of land for cemetery usage.

Under the circumstances when subdivision plats are not required as described above, the Plan Commission reserves the right to request a plat of survey or other documentation if there is a need for said survey or documentation in order to verify conformance to the Zoning Code and/or to insure that the division of property is in accordance with the purpose and objectives of the Code as listed in **Section 34-1-3**.

34-1-10 DISCLAIMER OF LIABILITY.

(A) Except as may be provided otherwise by statute or ordinance, no official, 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 Chapter. **(See "Local Governmental Employees Tort Immunity Act", 745 ILCS 10/1-101)**

(B) Any suit brought against any official, council member, agent, or employee of this City as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the City Attorney until the final determination of the legal proceedings.

ARTICLE II - PRELIMINARY PLAT

DIVISION I - PROCEDURE

34-2-1 **PRE-APPLICATION CONFERENCE.** Before submitting a preliminary plan and plat, the applicant is encouraged to confer with the Administrator and the Plan Commission and other official units of government affected thereby as well as those providing services to the area in question to initiate pre-planning activities and obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of detailed plans, surveys and other data.

34-2-2 **APPLICABILITY OF ARTICLE.** No land within the subdivision jurisdiction of the City--other than land that is specifically exempted from the requirements of this Code as provided in **Section 34-1-9**--shall be subdivided or developed except in compliance with the regulations of this Code and the applicable provisions of State law. **No lot** in any subdivision shall be conveyed until:

(A) The portion of the 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; and

(B) The final plat of the subdivision has been approved by the City Council and recorded in the office of the County Recorder of Deeds.

No building permit shall be issued to allow construction on any lot conveyed in violation of this Section.

34-2-3 **MINOR SUBDIVISIONS.** Minor subdivisions, as defined in **Section 34-1-7**, may be exempted from the procedures and requirements for Preliminary Plats and the subdivider may proceed to filing of the Final Plat for review. Final Plat procedures and requirements shall be as specified in **Article IV, Sections 34-4-1 and 34-4-4.**

34-2-4 **PRELIMINARY PLAN AND PLAT.**

34-2-4.1 **SUBDIVIDER.** The subdivider shall file with the City at the office of the Administrator **ten (10) copies** of the Preliminary Plan and Plat at least **ten (10) days** prior to the regularly scheduled Plan Commission meeting. Such application shall include the following:

(A) **Requested Information.** A written request to the Plan Commission for preliminary review of such subdivision and a general description of the location and size of the tract to be platted; the intent as to character type and use of the property and structures to be developed; the deed restrictions proposed, if any; a statement of mineral rights; the extent and character of the improvements to be made by the subdivider, the zone district classification(s) of the territory and compliance of the proposed subdivision thereto. If appropriate, a description of any unique hardship or difficulty limiting the physical development of the property under consideration and a description of any past history of the property under consideration which is pertinent thereto.

(B) **Documentation.** The necessary documentation in accordance with the requirements of this Code. **(See Sec. 34-2-6, et seq.)**

(C) **Filing Fee.** A filing fee sufficient to cover the engineering inspection fees to be incurred by the City.

34-2-4.2 PROCEDURE.

(A) **Distribute Copies.** The Administrator shall immediately distribute a copy to the City Superintendent(s); a copy to the School Superintendent(s); a copy to the Soil and Water Conservation Service; a copy to the City Engineer; a copy to the Mayor; **two (2) copies** to the Plan Commission; and a copy to the Fire Chief.

(B) **Time Constraints.** The Commission shall review the Preliminary Plat within **sixty (60) days** from the date of application or the filing by the subdivider of the last item of required supporting data, whichever date is later, unless such time is extended by written mutual consent, and shall determine whether the Preliminary Plat shall be approved as submitted; shall be approved subject to certain conditions or modifications; or shall be disapproved.

(C) **Plan Commission Review.** The action of the Plan Commission shall be noted in writing, and if such Preliminary Plat is disapproved or is conditionally approved, the Commission shall furnish written notice of such action to the applicant setting forth the reasons for disapproval or conditional approval and specifying with particularity the aspects in which the Preliminary Plat fails to conform to the City's Code including the Comprehensive Plan.

(D) **City Council Review.** The City Council shall accept or reject the Preliminary Plat within **thirty (30) days** after its next regularly scheduled meeting following the action granting approval of the Preliminary Plat by the Commission, unless such time is extended by written mutual agreement of the City Council and the applicant, or such Preliminary Plat will be deemed as approved. The City Council shall indicate by letter whether the Preliminary Plat is approved or disapproved as submitted. If the Preliminary Plat is disapproved, the letter shall state the reasons for disapproval.

(E) **Official Approval.** A certified copy of the letter of approval or disapproval by the City Council shall be attached to the Preliminary Plat and shall be filed with the City Clerk; **one (1)** such copy shall be filed with the Administrator and **one (1) copy** shall be returned to the subdivider. Approval of the Preliminary Plat shall not qualify the Preliminary Plat for recording with the County Recorder of Deeds.

(F) **Rights and Privileges of Subdivider.** Preliminary Plat approval shall confer upon the subdivider the following rights and privileges:

- (1) That the Preliminary Plat approval will remain in effect for a **one (1) year** period. The applicant may, during this period, submit all of 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 Plan Commission, have final approval of the last part of the Plat delayed for a period not to exceed **three (3) 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 length.
- (2) That the general terms and conditions under which the Preliminary Plat approval was granted will not be changed.

34-2-5 RESERVED.

DIVISION II - PRELIMINARY PLAT REQUIREMENTS

34-2-6 REQUIREMENTS. Every Preliminary Plat shall be prepared by a land surveyor registered in the State of Illinois. The Preliminary Plat to be provided by the subdivider **shall meet and include** the following specifications and supporting data:

- (A) Proposed name of the subdivision and location.
- (B) Small key map showing the relation of the proposed subdivision to Section or U. S. Survey Lines and to platted subdivisions and dedicated streets within **three hundred (300) feet** of the proposed subdivision.

- (C) Names and addresses of the owner, subdivider, land planning consultant and the Illinois Registered Land Surveyor who prepared the Preliminary Plat.
- (D) Existing and proposed streets or alleys and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street roadway and right-of-way widths, approximate gradients, types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all streets as to function as established herein.
- (E) All lot lines adjacent to and abutting the subdivision.
- (F) Layout of lots, showing approximate dimensions, numbers, lot area, and zone district classification(s).
- (G) Parcels of land, if any, proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes and use(s) of the area to be subdivided.
- (H) Easements, existing and proposed, showing locations, widths and purposes.
- (I) Building setback line and dimensions.
- (J) Location and size of existing public utilities and drainage ways or facilities within or adjoining the proposed subdivision and the location and size of nearest water trunk mains, interceptor sewer lines and other pertinent utilities.
- (K) Location, type and approximate size of utility improvements to be installed.
- (L) Tract boundary lines showing dimensions, bearings, angles and references to known land lines.
- (M) The gross area and net area acreage 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.
- (N) A topographical map which shall show topographically and by profile the elevation of the land prior to the commencement of any change in elevations as a part of any phase of subdividing, and additionally, if it is contemplated that such elevation or the flow of surface water from such land, will be changed as a result of any portion of such subdivision development, then such study shall also show such proposed changes in the elevations and the flow of surface water from such land. The topographical study required hereunder may be prepared as a study separate from, but of the same scale and size of the subdivision plat.
The Plat shall include a signed statement of a registered Professional Engineer, and the owner of the land, that to the best of their knowledge, the drainage of surface waters will not be changed by the construction of such subdivision or any part hereof, or, that if such surface water drainage will be changed, reasonable provision has been made for collection and diversion of such surface waters into public areas, or drains which the owner has a right to use, and that such surface water will be planned for in accord with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of the subdivision. **(Ord. No. 36-2005; 07-25-05)**
- (O) Location of major water courses, ponding areas, natural drainage ways and flood hazard areas.
- (P) The Preliminary Plan shall be drawn to a scale of not greater than **one hundred feet to one inch (100' = 1")**, provided, however, that if the resulting drawing would be over **forty-two (42) inches (42") square**, a scale of up to **two hundred feet to one inch (200' = 1")** may be used.
- (Q) North arrow and date.
- (R) Whenever a large tract is intended to be developed in stages, and only part of that tract is to be submitted for Final Plat approval, a Preliminary Plat for subdivision of the entire tract shall be submitted.

34-2-7 - 34-2-8 RESERVED.

DIVISION III - MINIMUM STANDARDS OF DESIGN

34-2-9 GENERAL STATEMENT. The subdivider shall conform to the following principles and standards of land subdivision in the design of each subdivision or portion thereof. No Preliminary Plat shall be approved unless it conforms to the following minimum standards of design.

34-2-10 STREETS AND ALLEYS.

(A) The street and alley arrangement shall be such as to not impose undue hardship upon the owners of adjoining property when they plat their own land and seek to provide for convenient access thereto. Reserve strips controlling access to streets are prohibited, except where their control is placed with the City Council.

(B) The arrangement of rights-of-way in a subdivision shall provide for the continuation of the existing streets or rights-of-way in adjoining areas, unless the Plan Commission deems such continuation undesirable for reasons of topography or design. Where subdivision streets or rights-of-way are continuations or extensions of existing streets or rights-of-way, the width thereof shall be of the same or greater width as the existing street or right-of-way, except that in no case shall the street or right-of-way in the subdivision be of less width than hereinafter provided.

(C) Where, in the opinion of the Plan Commission, it is desirable to provide future street access to adjoining areas, the streets and rights-of-way in the subdivision shall be extended to the property line. If deemed necessary by the Plan Commission, any temporary dead-end street shall be provided with a temporary turnaround. In no case shall access be denied to any parcel or part of a parcel of ground by the subdividing of land.

(D) Streets shall intersect, as nearly as possible, at right angles.

(E) Local street curb intersections shall be rounded by radii of at least **fifteen (15) feet**; intersections involving collector or arterial streets shall have radii of not less than **twenty-five (25) feet**.

(F) Street jogs with center line offsets of less than **one hundred twenty-five (125) feet** are prohibited.

(G) Unless topography indicates a need for a greater length, dead-end streets designed to be so permanently shall be no longer than **five hundred (500) feet** and shall terminate in a circular open space having a radius at the outside of the pavement of at least **forty-two (42) feet** and a diameter at the outside of the right-of-way of at least **one hundred (100) feet**.

(H) Local streets shall be designed so as to discourage through traffic.

(I) No local street grade shall be in excess of **ten percent (10%)** and no collector street or arterial street grade shall be in excess of **seven percent (7%)**, except as otherwise approved by the Plan Commission due to adverse topographic conditions. For adequate drainage, the minimum grade of any new street shall not be less than **one-half of one percent (0.5%)**.

(J) The Plan Commission **shall not** approve streets which will be subject to frequent inundation or flooding.

(K) Alleys shall be avoided in a single-family and two family district, except as required by this Section, however, may be required in multiple-family districts and commercial or industrial districts, unless other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent and adequate for the use proposed.

(L) Dead-end alleys shall not be permitted, except where provided with adequate turnaround facilities at the dead end, or where such dead-end alleys provide the only access to off street parking.

(M) Alleys, where provided, shall have a right-of-way of not less than **twenty (20) feet**.

(N) The minimum right-of-way of local streets, minimum including marginal access streets and cul-de-sacs, shall be **fifty (50) feet**.

(O) The minimum right-of-way of secondary or collector streets shall be **sixty (60) feet**.

- (P) The minimum right-of-way of arterial or primary streets shall be **eighty (80) feet**.
- (Q) Intersections of more than **two (2) streets at one (1) point** shall be avoided.
- (R) Where the subdivision abuts in or contains an existing or proposed arterial street, the Plan Commission may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street.
- (S) Dedication of half-streets shall be discouraged, but may be permitted whenever there is no other logical method of platting. However, wherever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted, unless other wise permitted by the Plan Commission.

34-2-11 DRAINAGE. No plat shall be approved for any subdivision which is subject to flooding unless the plat conforms to the applicable requirements of this Code. **(See Chapter 5, "Flood Plain Code")**

- (A) No plat shall be approved for any subdivision or part thereof which is subject to periodic flooding or which contains inadequate drainage facilities or which makes adequate drainage of streets impossible. However, if the subdivider agrees in writing to make improvements at his expense which will, in the opinion of the Plan Commission, make the area safe for human occupancy and use further provide adequate drainage for streets, then the preliminary and final plat may be approved.
- (B) Storm water drainage shall be discharged to marsh lands, swamps, retention basins, or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered by the Plan Commission for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control.
- (C) No existing ditch, stream, drain or drainage canal shall be deepened, widened, filled, rerouted or filled without written permission from the City.
- (D) Where artificial channels must be constructed to augment the natural drainage system, such channels as well as the natural drainage ways may be planned as part of a recreational trail system. Channels shall be designed to be aesthetically compatible for recreational trail use.
- (E) The drainage system shall be constructed and operational during construction or as approved by the City.
- (F) The natural drainage system shall be used as far as is feasible for the storage and flow of runoff.
- (G) No plat shall be recorded for any subdivision situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640) acres** or more, until such plan or map has been reviewed by the Department of Transportation, either independently or in cooperation with Federal, State or local agencies, for the purpose of determining, for the protection of persons and property, the flood hazards involved and a report thereon filed by that Department with the County Recorder.

34-2-12 EROSION AND SEDIMENT CONTROL. The following standards shall be applied in the subdivision and construction of land areas:

- (A) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
- (B) Natural plant covering shall be retained and protected so far as is consistent with development of the site.
- (C) When soil is exposed, the exposure shall be for the shortest feasible period of time.
- (D) Land shall be developed in increments of workable size, such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(E) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(F) Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.

(G) Sediment basins, debris basins, desilting basins, or silt traps shall be installed and maintained to remove sediment from runoff waters undergoing development.

(H) Temporary vegetation or, where appropriate, mulching or other non-viable cover shall be used to protect areas exposed during development.

(I) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of **four (4) inches** and shall be of a quality at least equal to the soil quality prior to development.

(J) Permanent final plant covering or structures shall be installed as soon as possible.

34-2-13 **EASEMENTS.**

(A) Easements of not less than **seven and one-half (7 ½) feet in width** shall be provided on each side of all rear lot lines, and alongside lot lines where necessary for storm and sanitary sewers, gas, water, and other mains, and for electric and telephone lines or for other public utilities. Easements of greater width may be required along or across lots when necessary for the extension of main sewers or other utilities or where both water and sewer lines are located in the same easement. A **two (2) foot** easement shall be required on **one (1) side** of and adjacent to an alley to accommodate pole lines.

(B) 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 determined by the Administrator.

(C) No tree, shrub or building shall be placed or erected in any easement for utility or drainage purposes or within the right-of-way of any street, except at the owner's risk as to all costs for demolition, removal or reconstruction, and the proper authorities may have free access to and use of the easements at any time.

34-2-14 **BLOCKS - CROSSWALKS.**

(A) No block shall be longer than **one thousand eight hundred (1,800) feet** or less than **five hundred (500) feet in length**, except where the continuity of the existing neighborhood would be disrupted.

(B) All blocks, whenever it is deemed essential to provide access to schools, playgrounds, shopping centers and other community facilities, shall have a crosswalk with a right-of-way of at least **ten (10) feet in width** near the center of the block. **[See Sec. 34-3-12(B)]**

(C) The length, width, and shapes of blocks shall be determined with due regard to building sites, land use, zoning requirements, access, safety, and convenience.

(D) Where a subdivision adjoins an arterial or collector street, the greater dimension of the block shall generally front or back upon such arterial or collector street to avoid unnecessary ingress or egress.

34-2-15 **PARKS AND OTHER PUBLIC AREAS.**

(A) Where any area is specifically designated on the Comprehensive Plan of the City for a public park, playground, school or other public use, and is owned by the subdivider, such area shall be reserved for such use on all subdivision plans and plats; and the acquisition of such area may then be secured by the City Council or arrangements be made for its acquisition within a period not to exceed **one (1) year** from the date of approval of the final plan. The value of such lands shall be established by

three (3) qualified appraisers; one (1) of whom shall be appointed by the Plan Commission, **one (1)** appointed by the subdivider, and one of whom shall be mutually agreed upon by the other **two (2)**.

(B) Should the City Council decide to take such premises, then, and in that case, it shall make arrangements to pay the subdivider the appraised value therefor as determined by the above described appraisers, or a sum that is mutually agreed upon. The City Council may accept any donation of land as above described should the subdivider desire to contribute the same to the City.

34-2-16 UTILITIES.

(A) Source of domestic water, electric and gas supply and the type of sewage disposal.

(B) Storm water drainage.
(1) Complete storm sewer system, including pipe sizes, inlets and inverts.
(2) A proposed surface water drainage pattern for each individual lot, block, and street.

(C) All easements as required shall be indicated.

(D) **Protective Covenants.** An outline of all proposed protective covenants shall accompany the preliminary plan and shall include a protection against the obstruction of any surface water drainage easement.

34-2-17 LOTS.

(A) **Minimum Size.** All lots in a subdivision shall conform to the minimum lot area and dimensions requirements of the zoning district in which the subdivision is located; land that is under water or reserved for street improvements shall not be counted in determining compliance with requirements. **(See Zoning Code)**

(B) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of surrounding development.

(C) All side lines of lots shall be at right angles to straight street right-of-way lines and radial to curved street right-of-way lines, except where a variation of this rule will provide a better street and lot design.

(D) All remnants of lots below minimum lot area size left over after subdividing of a larger tract shall be added to adjacent lots, rather than allowing to remain as unusable land, except when designated for utility purposes or accepted for public space for park or other public uses.

(E) Lots which **cannot** be served by either a public or private sanitary sewer, and/or a public water system, shall comply with the applicable provisions of the applicable Zoning Code, or shall not be less than **one (1) acre** in size per lot or household unit, whichever is greater. Such lots shall have a width of not less than **one hundred twenty-five (125) feet** or a depth in excess of **three (3) times** its width, unless otherwise permitted and approved by the Plan Commission.

(F) Lots with double frontage should be avoided where possible. Corner lots and lots with double frontage shall have extra dimension sufficient to permit the establishment of front building setback lines on the adjoining streets.

(G) The subdividing of the land shall be such as to provide each lot with satisfactory access to public streets. The Plan Commission may require additional reservation of land to insure adequate access to prevent land locking of the adjoining territory.

34-2-18 - 34-2-19 RESERVED.

DIVISION IV - APPROVAL OF PRELIMINARY PLAN

34-2-20 **CHECKLIST COMPLETED.** In order to qualify for approval, the Preliminary Plan shall be accompanied by a properly executed checklist as shown in **Section 34-6-1, Schedule "A"**.

34-2-21 **CHANGES OR REVISIONS.** The Plan Commission and/or Administrator may recommend, or the City Council may require, such changes or revisions as are deemed necessary in the interests and needs of the community.

34-2-22 **APPROVAL - TENTATIVE.** The approval of a preliminary plan by the Plan Commission and the City Council is tentative only, involving merely the general acceptability of the layout as submitted.

34-2-23 **CERTIFICATE.** Approval shall consist of a certificate to that effect on the preliminary plan signed by the Chairman of the Plan Commission and by the Mayor, with the advice and consent of the City Council.

ARTICLE III - ENGINEERING PLANS**DIVISION I - PROCEDURE**

34-3-1 **ENGINEERING PLAN PROCEDURE.** Within **twelve (12) months** after receiving approval of the Preliminary Plan by the City Council, there shall be submitted to the Administrator by the subdivider, **four (4) copies** of the engineering plans and specifications as required in **Division II** of this Article. The Administrator shall immediately refer **two (2) copies** to the Plan Commission and **two (2) copies** to the Mayor and shall notify the City Council of this action at the next regular City Council meeting. In the event of a special problem, the Plan Commission shall notify the owner or subdivider of the time and place at which he shall be afforded an opportunity of being heard. The Plan Commission shall make its recommendation to the City Council within **forty-five (45) days** after receipt of the engineering drawings and specifications. In the event of disapproval of the engineering plans and specifications by the Plan Commission, the same shall be immediately returned so marked to the Administrator for return to the subdivider, and may be refiled with the Administrator after necessary revisions are made.

34-3-2 - 34-3-3 **RESERVED.**

DIVISION II - MINIMUM STANDARDS OF IMPROVEMENT

34-3-4 **GENERAL STATEMENT.** Utility and street improvements shall be provided by the subdivider in each new subdivision in accordance with the standards and requirements described in the following section. The requirements set forth below shall be considered as minimum requirements and nothing contained herein shall be construed to mean that the subdivider cannot construct or provide improvements of a higher type.

34-3-5 **REFERENCE MONUMENTS.** Permanent monuments shall be of concrete, **four by four by thirty inches (4" x 4" x 30")** with a **one-half (1/2) inch** iron pin cast in the center, set in such a manner that they will not be moved by frost and shall be placed in the field as required by the **Illinois Compiled Statutes.**

All lot corners shall be marked by **one-half (1/2) inch** iron pins not less than **thirty (30) inches** in length and driven into the ground and shall not protrude above the ground surface more than **one and one-half (1 1/2) inches.**

These monuments must be placed at all corners, at the end of all curves, at the point where a curve changes its radius, at all angle points along a meander line, the points to be not less than **twenty (20) feet** back from the normal water elevation of a lake or from the bank of a stream, except that when such corners or points fall within a street or proposed future street, the monuments must be placed in the right-of-way line of the street. All internal boundaries, corners and points must be monumented in the field by like monuments as defined above.

34-3-6 **STREET IMPROVEMENTS.** All streets shall be graded as hereinafter provided:
 (A) **New Streets.** 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 the specifications adopted by the **State of Illinois Department of Transportation**; 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, and which roadway shall not be less than **fifty (50) feet in width** on local streets and **sixty (60) feet** on collector streets.

(C) **Combination Concrete Curb and Gutter.** Combination concrete curb and gutter shall be built in accordance with the detail shown on **Figure 3**.

The minimum distance from back to back of curbs shall be **thirty-eight (38) feet** on local streets and **forty-two (42) feet** on collector streets.

(D) **Street Construction Standards.** All streets within the jurisdictional authority of the City, other than State highways, shall be improved with pavements bounded by integral concrete curbs and gutter, in accordance with the following criteria:

- (1) Specifications are as follows:

STREET TYPE	DEDICATED STREET WIDTH	PAVEMENT WIDTH	PAVEMENT TYPE
Arterial (Primary)	80 feet	50 feet	*
Collector (Secondary)	60 feet	38 feet	Bituminous Surface Treatment (See Below)
Local (Minor)	50 feet	34 feet	Bituminous Surface Treatment (See Below)
Cul-de-sac	50 feet	27 feet	Bituminous Surface Treatment (See Below)

* **To be mutually agreed upon between the City and the developer.**

- (2) **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 course Class 1 placed upon a crushed stone base course of CA #6 having a minimum thickness of **six (6) inches** compacted. The center **forty-two (42) feet** of the base course shall have a crown of **three (3) inches**.
- (3) **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"**.
- (4) 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 sub-base as to compaction and thickness of the base by the administrative officer, he may, by authority in writing to the subdivider, waive the winter season waiting period. Compaction shall be based upon percent of optimum density.

- (5) The subdivider shall be required to improve arterial or primary streets only to the width required by the current and immediate needs of his subdivision consistent to the standards and specifications herein contained.

(See Figures #1 to 5 at the end of Chapter)

(E) **Alleys.** Alleys, where permitted or required, shall be constructed as specified for local streets.

(F) **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.

34-3-7 STORM SEWERS AND OTHER DRAINAGE APPURTENANCES. In addition to the installation of curbs or gutters along the streets, as required by **Section 34-3-6(C)** of this Article, storm sewer systems may be constructed throughout the entire subdivision to carry off water from all inlets and catch basins, and shall be connected to an adequate outfall. Such sewers shall provide for an extension to land lying within the upland drainage area, whether such land is within the subdivision or not. Storm sewers shall be designed by the rational method; and copies of the design computations shall be submitted with the plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than **six hundred (600) feet** in the gutter. The storm water drainage system shall be separate and independent of the sanitary sewer system. Surface water drainage patterns shall be shown for each and every individual lot and block. The Zoning Board, upon the recommendation of the Administrator, may require the installation of storm sewers.

34-3-8 PUBLIC UTILITY ENGINEERING REQUIREMENTS. All proposed water and sanitary sewer facilities shall comply with the minimum requirements and recommendations of the Illinois Environmental Protection Agency of the State of Illinois and the Administrator. When a proposed subdivision is reasonably accessible to a public sewer system and/or distribution system, the subdivider shall provide the subdivision with a complete sanitary sewer system and/or water distribution system to be connected to the proper public system(s).

34-3-9 SANITARY SEWERS.

(A) All sewer plans and installations shall conform to the standards and specifications set forth in **"The Standard Specifications for Water and Sewer Main Construction in Illinois"**, as established by the Illinois Society of Professional Engineers.

(B) Sanitary sewer lines **shall be installed** to serve all properties in the subdivision except subdivisions where individual sewage disposal systems are permitted by the City Council.

(C) Where sanitary sewer mains of larger capacity than necessary to serve the subdivision as delineated in the Preliminary Plan are required to serve the future growth in the vicinity of the subdivision, as determined by the City Council, the City shall then reimburse the subdivider for the difference in cost of the smaller size pipe and the larger size pipe. The larger size shall be determined by the City Council.

(D) Each lot in the subdivision shall be provided at the property line with a connection to the public sanitary sewer system. The construction of the sewer system shall conform to the approved plans and specifications and all work should be properly inspected and approved by the Administrator.

(E) All tap-in fees, if applicable, shall be paid in advance as prescribed in **Chapter 38** of the City Code.

[NOTE: This prevents the street from being torn-up after construction.]

[See Section 34-6-2, Schedule "B" for Requirements]

34-3-10 WATER SYSTEM.

(A) All water main plans and installations, including all appurtenances thereto, shall conform to **"The Standard Specifications for Water and Sewer Main Construction in Illinois"**, as established by the **Illinois Society of Professional Engineers**.

(B) Water distribution facilities, including all pipe, fittings, hydrants, valves, vaults, etc., shall be installed to serve all properties within the subdivision.

(C) Where water mains of a larger capacity than **six (6) inches** are necessary to serve the subdivision, as delineated in the Preliminary Plan, and are required to serve the future growth in the vicinity of the subdivision, as determined by the City Council, the City shall then reimburse the difference in cost of the smaller size and the larger size pipe. The larger size shall be determined by the City Council.

(D) The construction of the water system shall conform to the approved plans and specifications and all work shall be properly inspected and approved by the City Engineer. Water service line **shall be extended** to each lot in the subdivision prior to the City accepting the street(s) for maintenance.

(E) Fire hydrants shall be located and installed by the subdivider with the approval of the Superintendent as part of the water distribution system. Installation of hydrants shall be accomplished in such a manner that each lot is within **four hundred (400) feet** of the fire hydrant when measured along the center line of the right-of-way. No fire hydrant shall be placed on a main smaller than **six (6) inches** in diameter. Hydrants installed shall be of the type approved by the Superintendent.

(F) All tap-in fees, if applicable, shall be paid in advance as prescribed in **Chapter 38** of the City Code.

[See Section 34-6-2, Schedule "B" for Requirements.]

34-3-11 STREET NAMES AND SIGNS.

(A) **Street Names.** The names of new streets shall be sufficiently different in sound and spelling from the names of existing streets in the City to avoid confusion. A street which is planned as a continuation of an existing street shall bear the same name as the existing street.

(B) **Street Name Signs.** Street name signs shall be erected by the developer at all intersections within or abutting the subdivision with the approval of the Street Superintendent. Signs shall be embossed steel U. S. Standard Street Signs (or the equivalent thereof), measuring **six inches by twenty-four inches (6" x 24")**, with lettering at least **four (4) inches** high. All street name signs shall be mounted on **two (2) inch** diameter galvanized pipe set in concrete to a depth of at least **three (3) feet** and extending above the surface to a height of at least **seven (7) feet**.

34-3-12 PUBLIC UTILITIES: GAS, ELECTRIC, TELEPHONE, AND CABLE TELEVISION.

(A) **Electric System.** The developer shall conform to the regulations and procedures specified in **Chapter 38** of the City Code as it pertains to the electric distribution system and appurtenances.

(B) **Natural Gas System.** The developer shall conform to the regulations and procedures specified in **Chapter 38** of the City Code as it pertains to the natural gas distribution system and appurtenances.

(C) **Telephone and Cable Television.** All utility lines and cable television service lines shall be placed in the rear-line easements when carried on overhead poles.

34-3-13 SIDEWALKS.

(A) Concrete sidewalks not less than **four (4) inches** in thickness and **four (4) feet** in width may be constructed within the street right-of-way and adjacent to the property line.

(B) In the event a crosswalk is required in accordance with **Section 34-2-14**, a concrete sidewalk not less than **four (4) inches** in thickness and **four (4) feet** in width shall be constructed and at a grade no steeper than **fifteen percent (15%)** unless steps of adequate design are provided.

34-3-14 - 34-3-15 RESERVED.

DIVISION III - APPROVAL OF DESIGN PLANS

34-3-16 CHECKLIST. In order to qualify for approval, the engineering plans shall be accompanied by a properly executed checklist as shown in **Section 34-6-2, Schedule "B"**.

34-3-17 CHANGES OR REVISIONS. The Plan Commission may recommend or the City Council may require such changes or revisions as are deemed necessary in the interest and needs of the community.

34-3-18 APPROVAL, TENTATIVE. The Plan Commission may grant approval of the total required engineering plans by approval of plans covering only a portion of the land improvements (e.g., sanitary sewers and water) so as to facilitate immediate installations. This partial approval shall consist of a certificate on the plans covering each of the required improvements signed by the Plan Commission.

34-3-19 LETTER OF APPROVAL. Final approval of the complete set of engineering plans shall consist of a letter of approval from the Plan Commission, listing thereon:

- (A) Type of improvement(s) covered by the plan.
- (B) Name of designing engineer.
- (C) Date of preparation and revision, if any.

ARTICLE IV - FINAL PLATS

DIVISION I - PROCEDURE

34-4-1 SUBDIVIDER.

(A) Within **six (6) months** after receiving approval of the engineering plans and specifications by the Plan Commission, or a period of time beyond **six (6) months** that may be granted by the City Council, there shall be submitted to the Administrator by the subdivider, the original drawing, **one (1)** transparency print and **four (4) copies** of the final plat, which shall also contain all required signed certifications other than signed certificates of approval by the Plan Commission, the City Council and the Administrator. It shall contain the necessary documents as may be necessary concerning the form of guarantees or performance bond to be used. The final plat shall retain the overall characteristics of the Preliminary Plan and may include all or part of the area shown on the Preliminary Plan.

The Administrator shall refer the **original drawing** and **two (2) copies** of the final plat to the Plan Commission, and **one (1) copy** of the final plat to the Superintendent of Utilities, at least **ten (10) days** prior to their next regularly scheduled meeting for recommendation as to final approval. In the event of a special problem, the Plan Commission shall notify the owner or subdivider as to the time and place of the Plan Commission meeting at which time he will be afforded an opportunity of being heard.

(B) **Plan Commission Action.** The Plan Commission shall review the Final Plat and plans and transmit their report of findings and recommendations to the City Council within **thirty (30) days** of the filing date of the Final Plat. The action of the Plan Commission, whether approval or disapproval of the Final Plat, as well as the date of said action, shall be noted in writing and attached to the Final Plat. If the Final Plat is disapproved, the reasons why shall be so stated.

(C) **City Council Action.** The City Council shall take action on the Final Plat within **sixty (60) days** from the date of the subdivider's filing of the last required document or other paper or within **sixty (60) days** from the date of the subdivider's filing application for approval of the Final Plat, whichever date is later, unless such time is extended by written mutual consent.

(D) **Disapproval.** If the Final Plat is disapproved by the City Council, the reasons for such action shall be noted in writing by resolution, stating the reasons for disapproval, specifying with particularity the aspects in which the Final Plat fails to conform with the City's ordinances.

(E) **Posting Performance Bond.** If the Final Plat is approved by the City Council, the Final Plat shall be held by the City Clerk until such time the subdivider posts a performance guarantee bond as required by **Division IV** of this Article.

Upon receipt of said performance guarantee or bond, the Mayor shall affix his signature to the Final Plat and attach thereto a notation that the Final Plat has received final approval of the City Council; the Clerk shall attest the signature of the Mayor and affix the seal, and attach a certified copy of the City Council's resolution of approval to the approved Final Plat. If such performance guarantee or bond is not posted by the subdivider within **sixty (60) days** from the date of approval of the Final Plat by the City Council, approval of such Final Plat shall expire and become null and void.

34-4-2 - 34-4-3 RESERVED.

DIVISION II - FINAL PLAT REQUIREMENTS

34-4-4 REQUIREMENTS - SUBDIVIDER. The Final Plat to be provided by the subdivider shall meet the following specifications:

(A) The Final Plat may include **all or only a part** of the Preliminary Plat which has received approval.

(B) The Final Plat shall be drawn on new linen tracing cloth, mylar or a polyester-based film with waterproof black ink to a scale of not greater than **one hundred feet to one**

inch (100' = 1"), provided, however, that if the resulting drawing would be over **forty-two (42) inches square**, a scale of up to **two hundred feet to one inch (200' = 1")** may be used.

(C) **Four (4)** black or blue line prints shall be submitted with the original tracing of the Final Plat, or in order to conform to modern drafting and reproductive methods, **four (4)** black or blue line prints and reproducible cloth or film positives of the Final Plat shall be submitted.

Prints filed with the City shall include: **One (1)** black or blue line print made after recording of the Final Plat and bearing the official stamp attesting the fact of the recording; and **one (1)** reproducible print or film positive of the Final Plat, as approved.

(D) All dimensions shall be shown in feet and decimals of a foot and/or meters.

(E) All surveys for a Final Plat shall be made under the active and personal direction of an Illinois Registered Land Surveyor, and the following basic information shall be shown:

- (1) 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 five thousand (5,000) feet**.
- (2) Accurate distances and directions to the nearest established official monument. Reference corners shall be accurately described on the Final Plat.
- (3) All elevations shall be referenced to the established datum and said reference shall be clearly stated on any plans or drawings showing such datum, provided that bench marks are located within a reasonable distance.
- (4) Accurate metes and bounds description of the boundary and the included area of the subdivision to the nearest **one-hundredth (1/100)** of an acre.
- (5) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract, shown by heavy solid lines.
- (6) Right-of-way lines of streets, easements and other rights-of-way and property lines and areas of lots and other tracts, with accurate dimensions, bearings and curve data, including radii, arcs and chords, points of tangency, and central angles.
- (7) Name and right-of-way width for each street or other right-of-way.
- (8) Location, dimensions and purposes of any easement, shown by light, dashed lines.
- (9) Number to identify each lot or site.
- (10) Purpose for which sites, other than residential lots are dedicated or reserved.
- (11) Lot dimensions and areas of each lot and building setback lines and dimensions.
- (12) Location, type, material, and size of all monuments and lot markers.
- (13) Names of owners and mortgagees accepting said Plat with owner or owners personally signing all plans.
- (14) Names of owners of record of adjoining unplatted lands.
- (15) Reference to recorded subdivision plats within **three hundred (300) feet** of adjoining platted land by record name, date and number.
- (16) Restrictions of all types which will run with the land and become covenants in the deeds for lots. Restriction lines should be shown by medium, dashed lines.
- (17) Title or name of subdivision; Section, Township and Range numbers in which the subdivision is located; and north arrow, scale and date.
- (18) Certification as required by **Section 34-4-5**.
- (19) The City Ward in which it is located.

34-4-5 **APPROPRIATE CERTIFICATES.** The following shall be completed as required by this Code:

(A)

OWNER'S CERTIFICATE

We, _____, the owners of _____, 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 _____, _____.

(SEAL)

(SEAL)

(B)

NOTARY PUBLIC'S CERTIFICATE

State of Illinois)
)
County of) ss

I, _____, Notary Public, in and for said County in the State aforesaid, do hereby certify that _____, personally known by me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument as such owner(s), appeared before me this day in person and acknowledged that they signed and delivered this plat as their own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, _____, at _____.

NOTARY PUBLIC

(C)

SURVEYOR'S CERTIFICATE

State of Illinois)
)
County of) ss

I, _____, a registered Illinois Land Surveyor, do hereby certify that this plat is a correct representation of a survey and subdivision made under my direct supervision at the request of _____, for the purpose of subdividing the tract into lots as shown.

Illinois Land Surveyor

Registration Number

Date

BY: _____

Owner(s)

BY: _____
Illinois Land Surveyor

Registration Number

Date

(G)

PLAN COMMISSION CERTIFICATE

State of Illinois)
) ss
County of)

Approved this __ day of _____, _____.

CHAIRMAN, PLAN COMMISSION

SECRETARY, PLAN COMMISSION

(H)

SUPERINTENDENTS OF WATER, SEWER, AND STREETS

State of Illinois)
) ss
County of)

We, the Superintendents, do hereby certify that the required improvements have been installed or the required guarantee bond has been posted for the completion of all land improvements.

WATER SUPERINTENDENT

SEWER SUPERINTENDENT

STREET SUPERINTENDENT

Dated this ____ day of _____, _____.

34-4-6 - 34-4-7 RESERVED.

DIVISION III - APPROVAL OF FINAL PLAT

34-4-8 **REQUIREMENTS OF FINAL PLAT.** In order to qualify for approval, the Final Plat shall be accompanied by the following:

- (A) A properly executed checklist as shown in **Section 34-6-3, Schedule "C"**.
- (B) Detailed specifications for all required land improvements other than those specifications submitted and approved with the engineering plans.
- (C) A copy of the **Illinois Environmental Agency's** permit for the sanitary sewer installation.
- (D) A copy of the **Illinois Environmental Agency's** approval for the water main installation.
- (E) An affidavit executed by the owner and/or subdivider accepting the responsibility for the installation of the improvements as shown on the approved engineering plans and covered by the specifications and permits required above. This affidavit shall include a stipulation by the subdivider of the installation of all land improvements in the presence of a registered engineer.
- (F) A certified estimate of cost of all required land improvements prepared by a registered engineer.
- (G) A description of the bond or guarantee collateral intended to be submitted as required in **Division IV**.

34-4-9 - 34-4-10 **RESERVED.**

DIVISION IV - GUARANTEES

34-4-11 **GUARANTEES TO VILLAGE.** After the City Council has approved the Final Plat with respect to the above qualifications, the subdivider shall be so notified by the Administrator. Final approval and signature by the Mayor and the Administrator shall be contingent upon the receipt by the City of guarantee by the owner and/or subdivider to the City for the completion of all land improvements yet remaining to be installed. Within **sixty (60) days** of the approval of the Final Plat, one of the following shall be completed:

- (A) Deposit with the City a subdivider's bond in the amount of the estimated cost of the land improvements; said bond need never exceed **one and one-half (1 ½) times** the estimated cost of the improvements remaining to be completed; or
- (B) Deposit with the City cash in the amount of the estimated cost of the land improvements; said amount of cash need never exceed **one and one-half (1 ½) times** the estimated cost of the improvements remaining to be completed. Subdivider shall execute "**an undertaking in lieu of a bond**" provided for in **Section 34-6-5** and an "**irrevocable commitment**" from a financial institution as provided for in **Section 34-6-5**; or
- (C) Deposit with the City a lien to be recorded in the County Recorder's Office on all property being subdivided, with the provision that partial release may be obtained when the loaning company executes with the City an agreement to withhold **one and one-half (1 ½) times** the estimated cost of the land improvements yet remaining to be installed, in escrow, until such time as all land improvements have been completed and accepted by the City. All expenses incurred in determining the amounts apportioned against the land and the cost of releasing each lot or tract shall be paid by the subdivider; or
- (D) Deposit with the City other collateral equivalent to **one and one-half (1 ½) times** the estimated cost of land improvements yet remaining to be installed, such collateral to be approved by the City Council.

34-4-12 CONSTRUCTION TIME CONSTRAINTS. All required land improvements shall be installed and completed within a period of **two (2) years** after the recording of the Final Plat. Failure of the subdivider to complete all of the improvements within this **two (2) year** period shall result in forfeiture of the guarantee collateral unless an extension of time is requested by the subdivider and granted by the City Council. In the event of failure to complete the improvements in the required period, as stated above, the City Council may direct that no further building permits be issued for property in such subdivision pending satisfaction of the City Council in regard to the status of the required land improvements.

34-4-13 INSPECTION. All required land improvements to be installed under the provisions of this Chapter shall be checked during the course of construction, by or at the direction of the Administrator or his designated representative.

The cost of any re-inspection of any required land improvement found to be faulty or not in accordance with the approved plans and specifications shall be paid by the subdivider to the City. The testing of any concrete, asphalt, soil, or other materials and workmanship shall be done at the direction of the City and at the expense of the subdivider.

34-4-14 RELEASE OF BOND. The subdivider's bond or guarantee collateral shall be released only upon fulfillment of the following conditions:

- (A) The completion of all required land improvements.
- (B) The submission of **four (4) copies** of acceptable "as-built" drawings of all land improvements.
- (C) An affidavit to the effect that:
 - (1) All materials, labor, and other costs have been paid, or arrangements have been made for payment so as to hold the City free from any obligations for payment of any costs of the land improvements, and
 - (2) That the subdivider accepts responsibility for the maintenance and repair of all land improvements for **one (1) year** after the date of the acceptance resolution by the City Council.
- (D) Final Acceptance, by resolution of the City Council of all land improvements.

ARTICLE V - ADMINISTRATION

34-5-1 ENFORCEMENT OFFICER -DUTIES. The Administrator is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) To review and forward preliminary and final plats to the Plan Commission;
- (B) To transmit improvement plans to the City Engineer for his review;
- (C) To issue stop orders as necessary when the City Engineer determines that approved improvements are being constructed in violation of this Code;
- (D) To pursue actions authorized in this Code when a developer fails to complete required improvements;
- (E) To evaluate and make decisions concerning proposed minor changes in approved final plats;
- (F) To review and forward applications for subdivision variances to the Plan Commission;
- (G) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on such matters to the Plan Commission as necessary;
- (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, final plats, variances, and amendments; and
- (I) To provide information to subdividers/developers and to the general public on matters related to this Code.

34-5-2 SUBDIVISION VARIANCES. Any subdivider/developer desiring a variance from the requirements of this Code shall file a written application therefor with the Administrator at the same time that he files his Preliminary Plat. The application shall fully explain the grounds for the variance request, and specify the section(s) of this Code which, if strictly applied, would cause great practical difficulties or hardship. The Administrator shall prepare an advisory report on variance application and submit it, together with the completed application to the Plan Commission.

(A) **Review By Plan Commission.** The Plan Commission shall review the variance application and the Administrator's comments, and submit their advisory report to the City Council, together with their recommendation on preliminary plat approval. The Plan Commission's advisory report shall be responsive to all the variance standards set forth in paragraph (B) below.

(B) **Action by City Council - Variance Standards.** At the same meeting at which they take action on the application for preliminary plat approval, the City Council shall decide by resolution whether to grant or deny the requested subdivision variance. A copy of their decision, clearly stating their reasons therefor and the exact terms of any variance granted shall be attached to both the preliminary and final plats. The City Council shall not grant any subdivision variance unless, based upon the information presented to them, they determine that:

- (1) the proposed variance is consistent with the general purposes of this Code; and
- (2) strict application of the subdivision design and improvement requirements would result in great practical difficulties or hardship to the applicant, not a mere inconvenience; and
- (3) the proposed variance is the minimum deviation from the subdivision requirements that will alleviate the difficulties/ hardship; and
- (4) the plight of the applicant is due to peculiar circumstances not of his own making; and
- (5) the peculiar circumstances engendering the variance request are not applicable to other tracts, and therefore, that a variance would be a more appropriate remedy than an amendment; and
- (6) the variance, if granted, will not substantially impair implementation of the City Community Plan, if any, including the Official Map.

34-5-3 **AMENDMENTS.** Amendments to this Code may be proposed by the Administrator, any member of the City Council, any Plan Commission member, or any party in interest. Every amendment proposal shall be filed on a prescribed form in the Administrator's office. The Administrator shall promptly transmit each proposal, together with any comments or recommendations he may wish to make to the Plan Commission.

34-5-4 **ADVISORY REPORT - ACTION BY CITY COUNCIL.** Within a reasonable time 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. The City Council may either pass or reject the proposed amendment or may refer it back to the Plan Commission for further consideration.

34-5-5 **SCHEDULE OF FEES.** All fees indicated in tabular form below shall be paid to the City Clerk. The fees are intended to defray the administrative costs connected with the processing/conducting of the listed item; they do not constitute a tax or other revenue-raising device.

<u>PROCEDURE</u>	<u>FEE</u>
Filing preliminary plat	\$ 25.00
Filing improvement plans	\$ 25.00
Improvement inspection	ACTUAL ENGINEERING
Filing final plat	\$ 25.00
Filing variance request	\$ 50.00
Filing amendment proposal	\$ 25.00

34-5-6 **RECORDING.** The City Clerk shall not accept a Final Plat for filing with the County Recorder of Deeds unless the following conditions are met:

- (A) The Final Plat conforms to all requirements specified by the City Council as conditions of approval.
- (B) The Final Plat meets the design standards and engineering specifications set forth herein.
- (C) The Final Plat meets all requirements of the laws of the State of Illinois.
- (D) The subdivider or applicant establishes sufficient proof of his intent and ability to post a guarantee or performance bond or bonds with the City as required by **Section 34-4-11** to the estimated construction cost of all improvements intended to be dedicated to the City for maintenance and operation.

No subdivision Plat or Re-plat of land within the jurisdiction of the City shall be filed for record or recorded in the Office of the County Recorder of Deeds, unless and until the approval of the City Council is endorsed thereon by the City Clerk.

No lot shall be sold for such subdivision Plat or Re-plat until it has been approved by the City Council and filed for record in the Office of the County Recorder of Deeds as herein provided.

The developer shall file the approved Final Plat and ordinance with the County Recorder of Deeds not more than **thirty (30) days** from the date of posting of and not prior to the posting of the performance guarantee or bond as required by **Section 34-4-11 and 34-4-12; two (2) copies** of such Final Plat and ordinance shall be kept on file by the City Clerk; **one (1) such copy** filed with the Administrator; and **one (1) copy** shall be returned to the subdivider.

The City Council shall not permit any public improvements under its jurisdiction to be constructed or maintained within an area that has been subdivided after the adoption of this Code unless such subdivision has been approved in accordance with the requirements contained herein.

No Building and Zoning Occupancy Permit shall be issued by the Administrator, City or County for the construction of any building, structure or improvement to the land or any lot within the subdivision as defined herein, until all requirements herein have been fully complied with.

34-5-7 **VACATION OF PLATS.** In accordance with State law, 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 the 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 City 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, and the public utilities involved. 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. **(765 ILCS 205/6, 205/7 and 205/9)**

34-5-8 **MAINTENANCE OF IMPROVEMENTS.**

(A) 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.

(B) Prior to the dedication, the subdivider/developer shall post a maintenance bond with the City Clerk in the form approved by the City Attorney.

The bond shall be in the amount determined by the City Engineer 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 (1) year period**, the improvements are found to be defective, they shall be repaired/replaced at the subdivider's/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 Administrator, the City shall use the maintenance bond to make the necessary repairs/replacements.

If the cost of the repairs/replacements exceeds the bond amount, the subdivider/ developer shall be liable for the excess. At the end of the **one (1) year** period, the maintenance bond shall be released.

ARTICLE VI - SCHEDULES AND BONDS

34-6-1 SCHEDULE "A" - CHECKLIST FOR PRELIMINARY PLAN.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due Date of Recommendation—60 Days)

[NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
(B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
(C) Denote those items which the subdivider considers "not applicable" to this particular subdivision by the abbreviation "N.A."]

- 1. Six (6) copies of preliminary plan submitted.
2. Plans conform to Section 34-2-6.
3. Plan scale is not less than one (1) inch to one hundred (100) feet.
4. Minimum profile scale is one (1) inch to one hundred (100) feet horizontal and one (1) inch to ten (10) feet vertical.
5. A title sheet is included with each set of preliminary plans.
6. Name of proposed subdivision shown.
7. Location given by town, range, section or other legal description.
8. Name and address of owner, trust, corporation, or subdivider having control of project is shown.
9. Name and seal of registered engineer or surveyor who prepared topographic survey is shown.
10. Name and address of the designer of the plan is shown.
11. North direction is shown.
12. Date of preparation and date of revision, if any, is shown.
13. A location map is included indicating:
a. A scale of not less than one (1) inch to one thousand (1,000) feet.
b. Boundary lines of adjoining land within an area bounded by the nearest arterial streets or other natural boundaries.
c. Use of surrounding land.
d. Ownership of the surrounding land.
e. Alignment of existing streets
f. Section and corporate lines.
14. Boundary lines of proposed subdivision is clearly shown.
15. Total approximate acreage is shown.
16. Existing zoning classification is indicated.
17. The following existing items, if within the boundaries of the subdivision or located one hundred (100) feet or less outside the boundaries are shown:
a. Previously platted streets and other rights-of-way with improvements, if any, indicating:
1. location
2. widths
3. names
b. Railroad rights-of-way, indicating:
1. location
2. dimensions

_____17. (Continued)

- _____c. Utility rights-of-way, indicating:
 - _____1. location
 - _____2. widths
 - _____3. type
 - _____a. sewer
 - _____b. water
 - _____c. electric
 - _____d. other
- _____d. Parks and other open spaces, indicating:
 - _____1. location
 - _____2. area
- _____e. Easements, indicating:
 - _____1. location
 - _____2. width
 - _____3. purpose
- _____f. Permanent buildings and structures, indicating:
 - _____1. location
 - _____2. setback lines
 - _____3. names of owners
- _____g. Section and corporate lines
- _____h. Sanitary sewers, indicating:
 - _____1. location
 - _____2. size
 - _____3. manholes
 - _____4. invert elevations at manholes
- _____i. Water Mains, indicating:
 - _____1. location
 - _____2. size
 - _____3. valves, indicating
 - _____a. valve manhole, or
 - _____b. valve box
- _____j. Culverts, indicating
 - _____1. type
 - _____2. location
 - _____3. size
 - _____4. invert elevation
- _____k. Storm sewers, indicating:
 - _____1. location
 - _____2. size
 - _____3. catch basins
 - _____4. invert elevations
- _____l. Watercourses, indicating:
 - _____1. type
 - _____2. high water width and
 - _____3. width of easement
 - _____4. location of easement
- _____m. Marshes, indicating:
 - _____1. location
 - _____2. dimensions
 - _____3. soil bearing capacity
- _____n. Rock outcrops, indicating:
 - _____1. location
 - _____2. dimensions

- _____17. (Continued)
 - _____n. (Continued)
 - _____3. elevation
 - _____o. Monuments and survey markers, indicating:
 - _____1. location
 - _____2. type
- _____18. Topographic data is given in feet above mean sea level within the tract and to a distance of **one hundred (100) feet** beyond, indicating:
 - _____a. Existing contours at vertical intervals of not more than **two (2) feet**.
 - _____b. Proposed contours at vertical intervals of not more than **two (2) feet**.
 - _____c. Bench mark, indicating:
 - _____1. location
 - _____2. description
 - _____3. elevation
- _____19. Soil bearing data is given, if required by the Superintendent of Streets, indicating:
 - _____a. Location of tests
 - _____b. Depth of tests
 - _____c. Soil bearing capacity
 - _____d. Moisture content
- _____20. The following proposed items, if within the boundaries of the subdivision or located **one hundred (100) feet** or less outside of the boundaries, are shown:
 - _____a. Layout of streets, indicating:
 - _____1. Arterial (Primary) streets indicating:
 - _____a. **eighty (80) feet** right-of-way width
 - _____b. **fifty (50) feet** roadway width
 - _____2. Collector (secondary) streets, indicating:
 - _____a. **sixty (60) feet** right-of-way width
 - _____b. **forty-two (42) feet** roadway width back-to-back
 - _____3. Local (minor) streets, indicating:
 - _____a. **fifty (50) feet** right-of-way width
 - _____b. **thirty-eight (38) feet** roadway width back-to-back of curbs
 - _____4. Cul-de-sac streets, indicating:
 - _____a. **fifty (50) feet** right-of-way width.
 - _____b. **twenty-seven (27) feet** roadway width back-to-back of curbs.
 - _____c. The length does not exceed **eight hundred (800) feet** unless there are less than **sixteen (16) lots** abutting the cul-de-sac street.
 - _____d. Terminus is circular or nearly so, and right-of-way is at least **one hundred twenty (120) feet** in diameter.
 - _____e. Terminus roadway width is **eighty (80) feet** in diameter.
 - _____5. Through street shown extended to boundaries of subdivision.
 - _____6. Storm water runoff pattern on paving.
 - _____b. Names of streets:
 - _____1. Not duplicating the name of any street heretofore used in the City or its environs, unless the street is an extension of an already existing street, in which case, the name shall be used.

_____20. (Continued)

- _____c. Street improvement plan showing location of all new street improvements, including those to the center line of previously dedicated rights-of-way, abutting the subdivision, in accordance with present standards of the City.
- _____d. Utility easements:
 - _____1. Located at the rear of each lot and other necessary locations.
 - _____2. Not less than **ten (10) feet** in width on each lot.
 - _____3. Purpose is indicated.
 - _____4. Storm water runoff is indicated.
- _____e. Centerline profiles of all streets showing gradients not less than **0.4 percent** and not more than:
 - _____1. **five percent (5.0%)** on collector streets.
 - _____2. **seven percent (7.0%)** on minor streets.
- _____f. Pedestrian ways, when required, indicating: **(Sec. 34-2-14)**
 - _____1. Location at approximately the center of the blocks in excess of **nine hundred (900) feet** in length.
 - _____2. Width not less than **ten (10) feet**.
 - _____3. Shrub or tree hedge at side boundary lines.
- _____g. Block layout, indicating: **(Sec. 34-2-14)**
 - _____1. Blocks do not exceed **one thousand eight hundred (1,800) feet** in length.
 - _____2. Additional access ways to parks, schools, etc., are shown in accordance with the Plan Commission's requirements.
 - _____3. Blocks fit readily into the overall plan of the subdivision, with due consideration given to:
 - _____a. topographical conditions
 - _____b. lot planning
 - _____c. traffic flow pattern
 - _____d. public open space areas
 - _____4. Block numbers
 - _____5. Blocks intended for commercial, industrial or institutional use are so designated.
- _____h. Lot layout, indicating:
 - _____1. Lot dimensions.
 - _____2. Lot areas, not less than those stipulated in the appropriated district regulations of the Zoning Code.
 - _____3. Building setback lines shown and properly dimensioned.
 - _____4. Proposed land use.
 - _____5. Lot numbers.
 - _____6. Corner lots are sufficiently larger than interior lots to allow maintenance of building setback lines on both street frontages and still allow a buildable width equal to that of the smallest interior lot in the block.
 - _____7. All lots abut a publicly dedicated street for a distance of not less than the minimum width of the lot.
 - _____8. Lots are as nearly rectangular in shape as is practicable.
 - _____9. Lots are not less than the provision of the Zoning Code.
 - _____10. Lot lines are substantially at right angles to the street lines and radial to curved street lines.

- _____20. (Continued)
- _____h. (Continued)
- _____11. Double frontage lots only where:
- _____a. lots back upon an arterial street and front on an access street.
 - _____b. topographic or other conditions make subdividing otherwise unreasonable.
 - _____c. lots can be made an additional **twenty (20) feet** deeper than average.
 - _____d. a protective screen planting is indicated on one frontage.
- _____12. Lots abutting or traversed by a watercourse, drainageway, channel way, channel, or stream, indicating:
- _____a. additional width and depth to provide an acceptable building site.
 - _____b. width of easement is at least **fifteen (15) feet** wider on each side of water at high water level.
- _____13. Due regard for natural features, such as:
- _____a. trees
 - _____b. watercourses
 - _____c. historic items
 - _____d. other similar conditions
- _____i. Areas intended to be dedicated for public use, indicating:
- _____1. Plan conforms to general development plan of the Municipality.
 - _____2. Purpose.
 - _____3. Acreage.
- _____j. Source of domestic water supply, indicating:
- _____1. Connection to existing water mains.
 - _____2. Location of site for community water plant.
- _____k. Provision for sewage disposal, indicating:
- _____1. Connection to existing sanitary sewer mains.
 - _____2. Location of site for community sewage disposal plant.
- _____l. School sites, including:
- _____1. Location.
 - _____2. Dimensions.
 - _____3. Acreage.
- _____m. Topographic information, indicating:
- _____1. Proposed changes in elevation of land showing that any flooding would be relieved.
 - _____2. Adequate installation of storm sewers would remove the possibility of flooding.
- _____n. Sanitary Sewer layout, indicating:
- _____1. Location.
 - _____2. Size.
 - _____3. Invert elevations at manholes.
 - _____4. Manhole locations.
- _____o. Water main layout, indicating:
- _____1. Location.
 - _____2. Size.
 - _____3. Looped pattern where practicable.
 - _____4. Fire hydrants, spaced apart not more than **four hundred (400) feet**.

- _____20. (Continued)
 - _____p. Storm sewer layout, indicating:
 - _____1. Location.
 - _____2. Catch basins not more than **six hundred (600) foot** intervals.
 - _____3. Storm water is not carried across or around any intersection.
 - _____4. Surface water drainage pattern for individual lot and block.
 - _____q. Electric system layout.
 - _____r. Natural gas system layout.
 - _____s. Street light layout, indicating:
 - _____1. Locations and typical street light detail, or
 - _____2. Statement by subdivider that street lights will be installed in accordance with standards of the Municipality.
- _____21. An outline of proposed covenants accompanies the plans, indicating the intention of the subdivider to have the covenants recorded with the final plat.
 - _____a. Protective against obstruction against drainage easements.
- _____22. Typical street cross-section showing base construction, surfacing, concrete curb and sidewalk in accordance with the land improvements code.
- _____23. Indication that sidewalks will be installed along all lot lines coincidental with street rights-of-way.
- _____24. Indication on drawing or by certificate that subdivider is aware of his responsibility for installation of street signs and for seeding and tree planting in all parkways.

COMPLETED BY: _____(Name)
 _____(Address)
 _____(Date)

REVIEWED BY: _____(Administrator)
 _____(Date)

CONSIDERED BY PLAN COMMISSION ON: _____(Date)
 _____(Chairman)

34-6-2 SCHEDULE "B" - CHECKLIST FOR ENGINEERING PLANS.

_____ (Name of Subdivision)
 _____ (Date of Submission)
 _____ (Due Date of Recommendation—45 Days)

[NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers **"not applicable"** to this particular subdivision by the abbreviation **"N.A."**]

- _____1. Plans have been submitted within **twelve (12) months** of the date of approval, by the City Council, of the Preliminary Plan.
- _____2. **Four (4) copies** of engineering plans have been submitted.

- _____ 3. Plans conform to **Section 34-4-4.**
- _____ 4. A title sheet is included with each set of plans and includes:
 - _____ a. Name of subdivision and unit number.
 - _____ b. Type of work covered.
 - _____ c. Location map showing relation of area to be improved to existing street.
 - _____ d. An index of sheets.
 - _____ e. A summary of quantities.
 - _____ f. Name, address, and seal of registered engineer preparing the plans.
 - _____ g. Date of preparation and revisions, if any, is shown.
- _____ 5. Plan and profiles are on Federal Aid Sheets, Plate I or II, or equal.
 - _____ a. Horizontal scale is not less than **one (1) inch to fifty (50) feet.**
 - _____ b. Vertical scale is no less than **one (1) inch to five (5) feet.**
- _____ 6. Cross sections are plotted on Federal Aid Sheets, Plate III.
- _____ 7. North direction is shown for each separate plan view.
- _____ 8. An adequate number of bench marks are shown with elevations referenced to mean sea level, to facilitate checking of elevations.
- _____ 9. Delineation is shown of all easements necessary to serve all lots with underground and overhead utilities, and to allow for perpetual maintenance to these facilities.
- _____ 10. An application for State Environmental Protection Agency permit for the sanitary sewer extension accompanies the plans.
- _____ 11. Sanitary sewer plans and specifications are complete and conform to the standards and requirements of the Codes applicable thereto and denote all of the following: (**See Chapter 38**)
 - _____ a. All properties in the subdivision are served and house service connections are provided.
 - _____ b. The minimum size main is **six (6) inch I.D.**
 - _____ c. The plan conforms to the overall municipal plan for any trunk sewers traversing the subdivision.
 - _____ d. The distance between manholes does not exceed **four hundred (400) feet.**
 - _____ e. The invert elevation of each manhole is shown.
 - _____ f. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.
 - _____ g. Extra strength pipe and extra strength manhole wall construction is specified and shown on the plans and in the estimates of quantities where the depth of installation exceeds **eight (8) feet.**
 - _____ h. Profile of existing and proposed ground surfaces.
 - _____ i. Risers are shown for individual house service laterals where depths of main exceeds **twelve (12) feet.**
 - _____ j. Pipe joints are of permitted type.
 - _____ 1. **five hundred forty (540) pounds** in collector streets.
 - _____ 2. **four hundred (400) pounds** in minor and cul-de-sac streets.
 - _____ 3. **three hundred thirty-five (335) pounds** in rear-lot easements.
- _____ 12. An application for State Environmental Protection Agency approval of the water main installation accompanies the plans.
- _____ 13. Water distribution plans and specifications are complete and conform to the codes applicable thereto and include all of the following:
 - _____ a. All properties in the subdivision are served.
 - _____ b. The minimum size main is **six (6) inches I.D.**
 - _____ c. The plan conforms to the Municipality's overall plan for any trunk lines which might traverse the subdivision.

- _____13. (Continued)
- _____d. Valve and hydrant spacing and location conform to the approved preliminary plan.
 - _____e. Materials and joint specifications comply with the Municipality's standards.
 - _____f. Specifications include provisions for testing and sterilization of all new water distribution facilities.
 - _____1. Valve cover
 - _____2. Standard cover
 - _____3. Standard hydrant installation
- _____14. Street plans, including storm sewers, are complete and conform to the codes applicable thereto and include all of the following:
- _____a. The location of streets and width of pavements conform to those indicated on the approved preliminary plan.
 - _____b. Plan shows curb, gutter and sidewalk locations, and includes the following information:
 - _____1. Corner curb radius is not less than **sixteen (16) feet**.
 - _____2. Curve data for all horizontal curves.
 - _____3. Direction of flow along all curbs.
 - _____4. No surface water is carried across or around any street intersection, nor for a distance greater than **six hundred (600) feet**.
 - _____c. Cross-sections are submitted as necessary to indicate feasibility of proposed street elevations in relation to adjacent lot elevations, and include sidewalk location.
 - _____d. Profiles are submitted for all paving centerlines and storm sewers and indicate:
 - _____1. Catch basin invert elevations.
 - _____2. Minimum pipe size is **twelve (12) inches I.D.**, except that a lead from a single inlet may be **ten (10) inches I.D.**
 - _____3. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.
 - _____4. Storm sewer elevations do not conflict with any other underground utilities.
 - _____5. Storm sewer is connected with an adequate outfall.
 - _____6. Curve data is given for vertical road curves.
 - _____e. The storm sewer system is designed to provide sufficient capacity for the drainage of upland areas contributing to the storm water runoff on the street.
 - _____1. Storm sewer design computations are submitted with plans.
 - _____f. A surface water drainage pattern is shown for each block.
 - _____g. Material specifications comply with standards of the Municipality and include:
 - _____1. paving base materials
 - _____2. paving surface materials
 - _____3. concrete
 - _____4. pipe materials
 - _____h. Typical cross-sections and details include the following:
 - _____1. Collector street
 - _____2. Minor or cul-de-sac street
 - _____3. Concrete curb and gutter

- _____ 14. (Continued)
 - _____ 4. Concrete sidewalk
 - _____ 5. Standard manhole
 - _____ 6. Standard cover
 - _____ 7. Catch basin
- _____ 15. Street light plans are complete and include the following:
 - _____ a. Pole locations
 - _____ b. Spacing
 - _____ c. Average maintained footcandle illumination (calculated).
 - _____ 1. type of base and pole,
 - _____ 2. bracket or arm.
 - _____ 3. luminaire, indicating type of lamp and wattage.
 - _____ 4. mounting height.
- _____ 16. Parkway improvement specifications are complete and include provisions for:
 - _____ a. Removal of stumps and trees that cannot be saved, boulders and all other similar items.
 - _____ b. Grading, installation of topsoil and seeding or sodding.
- _____ 17. Street signs are shown to be installed at all street intersections not previously marked.

COMPLETED BY: _____ (Name)
 _____ (Address)
 _____ (Date)

REVIEWED BY: _____ (Engineer)
 _____ (Date)

CONSIDERED BY PLAN COMMISSION ON: _____ (Date)
 _____ (Chairman)

34-6-3 SCHEDULE "C" - CHECKLIST FOR FINAL PLAT.

_____ (Name of Subdivision)
 _____ (Date of Submission)
 _____ (Due Date of Recommendation—30 Days)

[NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers **"not applicable"** to this particular subdivision by the abbreviation **"N.A."**]

- _____ 1. Plat has been submitted within **six (6) months** after the approval of the engineering plan.
- _____ 2. Plat has been submitted within **three (3) years** after the approval of the Preliminary Plan [unless an extension of time has been requested of and granted by the City Council].
- _____ 3. **One (1) original drawing** of the final plat has been submitted.
- _____ 4. **One (1) transparency print** of the final plat has been submitted.
- _____ 5. **Four (4) copies** of the final plat - have been submitted.
- _____ 6. Plat is drawn with black or blue ink on heavy linen tracing cloth or polyester film.
- _____ 7. North direction is shown.

- _____ 8. Scale is shown [minimum **one (1) inch equals one hundred (100) feet**].
- _____ 9. Section corners and section lines are accurately tied into subdivision by distances and angles.
- _____ 10. Official survey monuments are shown as required.
- _____ 11. All necessary easements are shown and dimensioned.
- _____ 12. Building setback lines are shown and dimensioned in accordance with the Zoning Code.
- _____ 13. Lot areas are in accordance with the applicable zoning regulations.
- _____ 14. Street names are shown.
- _____ 15. Areas to be dedicated or reserved for public use are shown and described and the purpose is designated.
- _____ 16. Protective covenants are lettered on the plat or are appropriately referenced.
- _____ 17. Required certificates are shown and signed:
 - _____ a. Surveyor's Certificate [including legal description].
 - _____ b. Owner's Certificate.
 - _____ c. Notary Certificate.
 - _____ d. County Clerk Certificate.
 - _____ e. Flood Hazard Certificate.
 - _____ f. Plan Commission Certificate.
 - _____ g. City Council Certificate.
 - _____ h. Superintendents of Water, Sewer and Streets Certificate. following items have been submitted with the final plat.
- _____ 18. The following items have been submitted with the final plat:
 - _____ a. Detailed specifications for all required land improvements not previously submitted and approved with the engineering plans.
 - _____ b. A copy of the **State Sanitary Water Board Permit** for the sanitary sewer installation.
 - _____ c. A copy of the **State Department of Public Health Approval** of the water main installation.
 - _____ d. An affidavit by the subdivider acknowledging responsibility for the proper installation of all required land improvements.
 - _____ e. A certified estimate of cost of all required land improvements prepared by a registered engineer.
 - _____ f. A description of the bond or guarantee collateral intended to be submitted after contingent approval is granted by the Municipality.

COMPLETED BY: _____ (Name)
 _____ (Address)
 _____ (Date)

REVIEWED BY: _____ (Administrator)
 _____ (Date)

CONSIDERED BY PLAN COMMISSION ON: _____ (Date)
 _____ (Chairman)

34-6-4 SURETY BOND FOR IMPROVEMENTS.

"KNOW ALL MEN BY THESE PRESENTS THAT WE, _____
 _____ (name of individual, corporation, etc.), as principal, and the _____
 _____ (name of bonding company), a corporation authorized to do business in the State of _____
 _____ as surety, are held and firmly bound unto this **City of** _____ in the penal sum of _____
 _____ Dollars, lawful money of the United States for the

payment of which we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns jointly by these presents:

'The condition of this obligation is such that whereas, the said _____ (name of individual, corporation, or principal) has agreed to construct and/or install at its expense the following improvements:

- Street base and paving
- Concrete curb and gutters
- Water mains, appurtenances, and house services
- Storm sewers, appurtenances, and house services
- Sanitary sewers, appurtenances and house services
- Concrete sidewalks optional
- Street lights Optional
- Site improvements Optional

all in accordance with the specifications and Codes of the City and contained in plans and specifications prepared by _____ (named engineer), and approved by the City Council at the following location:

(DESCRIPTION OF PROPERTY)

'And has agreed to maintain such improvements constructed under this bond for a period of **one (1) year** from the date of acceptance of the same by the City Council.

'**NOW, THEREFORE**, if the said principal shall well and truly perform in all respects in strict accordance with the requirements, and shall save the City harmless from all loss, cost or damage, by reason of their failure to complete said work or maintain said improvements relating to the above described work, then this obligation to be void, otherwise to remain in full force and effect."

34-6-5 CASH BOND. The Plan Commission may permit a developer to file in lieu of the surety bond called for in **Article IV, Division IV**, a cash bond guaranteeing that the improvements will be completed as follows:

(A) **Undertaking in Lieu of Completion Bond.**

WHEREAS, the statutes of the State of Illinois grant to a municipal corporation the right to require that a developer constructing certain improvements within that community guarantee the construction of such improvements by a completion bond or other security acceptable to the community; and **WHEREAS**, _____ desires to construct a residential development within the _____ of _____, and that said Municipality is willing to accept an undertaking from a financial institution in the nature of an irrevocable commitment in lieu of such completion bond.

NOW, THEREFORE, are the following representations made by the owner and/or developer to the _____ of _____, as follows:

1. **THAT** _____ is the owner and/or developer of the property legally described in Clause 2 of this undertaking, and shall hereinafter be referred to as "**OWNER**"; and, **THAT** the City of shall hereinafter be referred to as "**MUNICIPALITY**".

2. **THAT THE OWNER** is the legal title holder of the following described property:

[LEGAL DESCRIPTION]

3. **THAT THE OWNER** shall be required to install and guarantee the installation of streets, sidewalks, street lights, sanitary sewers, storm sewers, water lines, recreational facilities (including structures), and common landscaping. In order to guarantee that such facilities shall be installed, the **OWNER** shall submit to the Municipal Engineer such specifications and estimated engineering costs as shall be required to meet with his approval. In aiding the Municipal Engineer in determining the amount of reasonably anticipated costs for the construction of such improvements, the **OWNER** may submit to the engineer signed contracts for the construction of such improvements. The Municipal Engineer, upon being satisfied that the design of the required improvements are in accordance with the ordinances of the **MUNICIPALITY** and in accordance with good engineering practices, shall estimate and certify an amount which shall represent **one hundred ten percent (110%)** of the reasonably estimated cost of completing the required improvements for which the **MUNICIPALITY** is requiring a completion guarantee.

4. **THAT** (except for the issuance of building permits for a reasonable number of models), the **OWNER** shall not be entitled to the issuance of [further] building permits until and unless said **OWNER** shall submit to the **MUNICIPALITY** an irrevocable financial commitment from a bank, savings and loan, or mortgage company approved by the **MUNICIPALITY** in the amount certified by the Municipal Engineer.

5. **THAT** the written irrevocable financial commitment shall be furnished by the **MUNICIPALITY** from a banking or lending institution in the form marked **Appendix "A"** and appended to this agreement.

6. **THAT THE OWNER** guarantees the workmanship of the public improvements to be installed upon the site for a period of **one (1) year** after their donation to the **MUNICIPALITY**. Upon final completion of the streets, sidewalks, street lights, sanitary sewers, storm sewers, and water mains, the **OWNER** shall execute a Bill of Sale for those items which are personal property. For a period of **one (1) year** after the granting of the Bill of Sale in the case of personal property, and the acceptance for maintenance in the case of streets and sidewalks, all necessary repairs to such facilities shall be the responsibility of the **OWNER**.

IN WITNESS WHEREOF _____

has hereunto set his hand and seal this _ day of _____, _____.

(OWNER)

APPROVED by the _____ of _____ this _____ day of _____
_____, _____.

BY: _____
(MUNICIPALITY)

(B) [Letterhead of Bank, Savings and Loan or Mortgage House]

GENTLEMEN:

We hereby establish our irrevocable credit in favor of _____ [developer] _____, or the Municipality of _____ in the amount of _____ Dollars (_____). We understand that this irrevocable credit is to be used to construct the following improvements in the residential development known as _____ to be constructed within the _____ of _____, Illinois:

streets; sidewalks; street lights; the portion of sanitary sewers, storm sewers, and water mains to become municipality-owned; recreational facilities (including a recreational building and a swimming pool and appurtenances thereof); and landscaping in common areas.

The development is legally described as follows:

[Legal Description]

We shall make payouts from this irrevocable commitment as follows:

If we have not been notified by the Municipality of a default by the owner and/or developer, we shall disburse the funds for labor and materials furnished by contractors in accordance with the sworn statement on order of the owner, the submission of proper lien waivers from the contractors engaged in such work, and the certificate by the Municipal Engineer, _____, [his name] _____, that such work has been properly completed, however, that we shall withhold from each payment made under such sworn statement(s) or order(s) an amount equal to **ten percent (10%)** thereof until all improvements have been completed except final surfacing of the streets and sidewalks, at which time the **ten percent (10%)** sum withheld shall be disbursed less a sum equal to **one hundred twenty-five percent (125%)** of the cost of the final surfacing of the streets, which sum shall be finally disbursed when the work has been completed and the requirements of certification and lien waivers as has been hereinabove set out have been met.

The required improvements shall be completed in accordance with the following schedule:

[Insert Schedule]

If we receive a resolution of the corporate authorities of the Municipality indicating that the owner and/or developer has failed to satisfactorily complete or carry on the work of the installation and construction of the required improvements, and such resolution indicates that the owner and/or developer has been notified that the Municipality finds that a breach of the owner's and/or developer's obligations has occurred and have not been cured within a period of **thirty (30) days**, that in such case, we shall make payments for materials and labor to such contractor(s) or subcontractor(s) retained by the Municipality who have completed the improvements in substantial accordance with the plans and specifications of the owner and/or developer; such payments shall be made upon the certification of the Municipal Engineer that the work has been completed and the submission of proper waiver of liens from the contractor(s) or subcontractor(s). The amount of the payouts shall be in accordance with the retention provisions as previously set out.

The irrevocable credit established by us shall be in force for a period of _____ years, and shall remain in effect without regard to any default in payments of sums owned by us by the owner and/or developer and without regard to other claims which we may have against the owner and/or developer. **Sixty (60) days** prior to the expiration of this irrevocable credit we shall notify the corporate authorities of the Municipality, by registered letter, return receipt requested, of the impending expiration date. This commitment shall not terminate without such notice. If the work covered by this commitment has not been completed within the time set forth in this agreement, the Municipality may, at its option,

continue drawing funds as otherwise provided for an additional period of **one (1) year**. It is recognized that the Municipality is according to the owner and/or developer the permission to proceed with the development project expressly upon the guarantee of the irrevocable nature of this commitment. It is further acknowledged that the consideration for this irrevocable commitment is provided by agreements between this financial institution and the developer. The sum of this credit shall, however, be reduced in the amount of disbursements made from time to time in accordance with the terms under which this credit is extended as set out above.

CHAPTER 36 - TAXATION

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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)**

36-1-9 **POLICE PENSION FUND.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to produce the amount of revenue needed to meet the requirements of the fund. **(40 ILCS 5/3-125)**

36-1-10 **FIREFIGHTER'S PENSION FUND.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to produce the amount of revenue needed to meet the requirements of the fund. **(40 ILCS 5/4-118)**

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 Herrin, 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.

(Ord. No. 01-01; 01-08-01)

(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.
(Ord. No. 17-2017; 08-28-17)

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. Commencing on **January 1, 2003**, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

36-3-5 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.

(Ord. No. 27-2002; 07-22-02)

(65 ILCS 5/8-11-17)

ARTICLE IV - FOREIGN FIRE INSURANCE COMPANIES

36-4-1 **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.

36-4-2 **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.

36-4-3 **REQUIRED REPORTS.** Every person acting in the City as agent for or on behalf of any such corporation, company, or association shall, on or before the **fifteenth (15th) day** of July of each and every year, render the City Clerk a full, true, and just account verified by oath of all premiums upon fire insurance policies which, during the year ending the first 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.

36-4-4 **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.**

36-4-5 **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.

36-4-6 **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 V – RETAILERS’ OCCUPATION TAX

36-5-1 **IMPOSITION OF TAX.** The Corporate Authorities of the City shall and do hereby impose a tax upon all persons engaged in the City in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of the State of Illinois, at retail in the City at a rate of **one and one-half percent (1.5%)** on and of gross receipts from those sales made in the course of such business. This tax shall only be imposed at the rate of **one and one-half percent (1.5%)** as authorized by the Act, which is at the same rate that the City imposes a Home Rule Municipal Retailers’ Occupation Tax under the Home Rule Municipal Retailers’ Occupation Tax Act. Under the Act, this additional tax may not be imposed on the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

36-5-2 **COLLECTION AND ENFORCEMENT.** The tax imposed by the City under this Article and the Act and all civil penalties that may be assessed as an incident of the tax shall be collected and enforced by the Illinois Department of Revenue.

36-5-3 **LIMITATION.** Nothing in this Article shall be construed to authorize the City to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State of Illinois. Notwithstanding anything herein to the contrary, this Article shall be given effect in such a manner as to comply with the Act as it shall from time to time be in effect.

36-5-4 **EFFECTIVE.** Pursuant to the City’s home rule authority, Sections 1-2-4 and 4-5-13 of the Illinois Municipal Code shall not apply to this Article. This Article shall become effective immediately upon its adoption and approval and the tax under **Section 36-7-1** above shall be given effect in the time and manner as provided in the Act.

(Ord. No. 32-2015; 09-28-15)

ARTICLE VI – GASOLINE TAX

36-6-1 TAX ESTABLISHED.

(A) There is hereby levied and imposed upon the purchase of each gallon of motor fuel, or fraction thereof, sold at retail within the corporate limits of the City, a tax at the rate of **Four Cents (\$0.04)** per gallon, which shall be paid in addition to all taxes and charges. **(Ord. No. 35-2017; 12-11-17)**

(B) In the event motor fuel is dispensed in a unit of measure other than the gallon, the tax shall be imposed at the same ratio to **Four Cents (\$0.04)** as the unit is to the gallon. The tax shall be paid in addition to all other taxes and charges. **(Ord. No. 35-2017; 12-11-17)**

(C) The incidence and liability for payment of the tax is to be borne by the retail purchaser of motor fuel. Nothing in this Article shall be construed to impose a tax upon the occupations of persons engaged in the retail sale of motor fuel.

(D) It shall be the responsibility of every retail gasoline dealer to secure the tax from the purchaser at the time the dealer collects the purchase price for the motor fuel and to pay over to the City the amount as provided in this Article.

(E) A retail gasoline dealer may make tax free sales only when the sale is made to the federal, state or local unit of government, as those terms are defined in Section 1 of Article VII of the Constitution of the State of Illinois, or any school district.

36-6-2 DEFINITIONS. For the purposes of this Article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

(A) **Bulk User.** Any person who purchases motor fuel for storage in bulk storage facilities located within the City, which facilities are owned, leased or controlled by the person, for subsequent dispensing into the supply tanks of internal combustion engines operated by the person.

(B) **Gasohol.** A fuel used chiefly in internal combustion engines which is comprised of gasoline and ethyl alcohols in variable quantities.

(C) **Gasoline or Diesel Fuel.** A volatile, highly flammable or combustible liquid mixture of hydrocarbons produced by the distillation of petroleum and used as a fuel in internal combustion engines, but shall not include mixtures commonly known as kerosene and aviation fuel, or mixtures used in the heating of buildings.

(D) **Motor Fuel.** "Gasohol" and "gasoline" and "diesel fuel" as defined in this Section.

(E) **Person.** Any natural person, trustee, court appointed representative, association, partnership, firm, club, company, corporation, limited liability company, business, trust, institution, agency, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees, or other representative acting either for himself, or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties.

(F) **Retail Gasoline Dealer.** Any person who engages in the business of selling motor fuel in the City to a purchaser for use or consumption and not for resale in any form.

(G) **Sale, Resale, Selling.** Any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, for valuable consideration.

36-6-3 PAYMENTS TO CITY.

(A) Every retail gasoline dealer shall transmit to the Budget Office of the City on or before the **fifteenth (15th) day** of each calendar month, the sum of money equal to the amount of motor fuel tax collected for preceding month, accompanied by a report upon forms supplied by the City, which shows the gross gallons of motor fuel sold for the particular month and such other information as the Budget Office may require for the enforcement of this Code.

(B) Every bulk user shall transmit to the Budget Office of the City on or before the **fifteenth (15th) day** of each month a sum of money equal to the amount of motor fuel tax owing for

the preceding calendar month, accompanied by a report upon forms provided by the City, which shows the gross gallons of motor fuel purchased for the preceding calendar month and such other information as the Budget Office may require for the enforcement of this Code.

(C) All reports and returns submitted by any person or dealer in compliance with this Code shall be kept confidential, provided that the aggregate totals of motor fuel sold, and tax received for the entire City may be periodically released.

36-6-4 BOOKS AND RECORDS.

(A) Every retail gasoline dealer shall keep complete and accurate books and records, including but not limited to records showing all purchases, receipts, sales and losses.

(B) Every bulk user shall keep complete and accurate records of purchases of motor fuel, including the dates of purchases, the gross gallons purchased on each date and the names and addresses of the gasoline dealers from which each of the purchases was made.

(C) For the purpose of administering and enforcing this Code, the Budget Officer, or his designee, shall have the right to inspect all books, records, and reports of retail gasoline dealers and bulk users during normal business hours.

36-6-5 PENALTIES.

(A) If for any reason the tax is not paid when due, a penalty of **one and one-half percent (1.5%)** per month shall be imposed on the amount of tax which remains unpaid, in addition to any fines or penalties pursuant to **Section 1-1-19** of this Code. Whenever any person shall fail to pay the tax as provided herein, an action to enforce the payment shall be brought on behalf of the City to enforce the provisions of this Division and collect any delinquent tax, interest and penalties. **(Ord. No. 9-2011; 03-03-11)**

(Ord. No. 20-2004; 05-24-04)

ARTICLE VII - ELECTRIC UTILITY TAX

36-7-1 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, 2016**.

36-7-2 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 privileges 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"** authorized by Section 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 business of the same class in the Municipality, whether privately or municipally owned or operated, or exercising the same privilege within the Municipality.

36-7-3 ADDITIONAL TAXES. Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-7-4 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 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.

36-7-5 **REPORTS TO CITY.** On or before the last day of each month, each taxpayer shall make a return to the City 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.

36-7-6 **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.

36-7-7 **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 **One Thousand Dollars (\$1,000.00)** in addition, shall be liable in a civil action for the amount of tax due.

(65 ILCS 5/8-11-2)

ARTICLE VIII – GAS TAX

36-8-1 **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.

36-8-2 **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 Municipality, whether privately or municipally owned or operated.

36-8-3 **ADDITIONAL TAXES.** Such tax shall be in addition to the payment of money, or value of products or services furnished to this Municipality 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.

36-8-4 **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.

36-8-5 **REPORTS TO MUNICIPALITY.** On or before the last day of September, each taxpayer shall make a return to the City Treasurer for the months of June, July and August, 1997, 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) Such other reasonable and related information as the corporate authorities may require.

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.

36-8-6 **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.

36-8-7 **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)

ARTICLE IX – MUNICIPAL CANNABIS RETAILERS’ OCCUPATION TAX

36-9-1 TAX IMPOSED; RATE.

(A) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate use of Medical Cannabis Pilot Program Act, at retail in the City of Herrin the rate of **two and one-half percent (2.5%)** of the gross receipts from these sales made in the course of that business.

(B) The imposition of this tax is in accordance with the provisions of Sections 8-11-23, of the Illinois Municipal Code (**65 ILCS 5/8-11-23**).

36-9-2 COLLECTION OF TAX BY RETAILERS.

(A) The tax imposed by this Article shall be remitted by such retailer to the Illinois Department of Revenue (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 may reimburse themselves for their seller’s tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(B) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this Article.

(Ord. No. 18-2021; 08-23-21)

ARTICLE X – AMUSEMENT PUSH TAX

36-10-1 **APPLICABILITY OF PROVISIONS.** The provisions of this Article, except as otherwise provided, shall apply to all amusements as hereinafter defined, whether specifically licensed or regulated under other provisions of this Code or other ordinances, or not.

36-10-2 **DEFINITIONS.**

(A) The word “amusement” means:

- (1) Any theatrical, dramatic, musical or spectacular performance, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition for public entertainment, including, without being limited to, boxing, wrestling, skating, dancing, swimming, racing, or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling, billiard and pool games.
- (2) Any entertainment offered for public participation, including, without being limited to, dancing, carnival, amusement park rides and games, bowling, billiard and pool games, or any Video Gaming Terminal.

(B) **Terminal Operator.** Any individual, partnership, corporation, or limited liability company that is licensed under the Video Gaming Act, **230 ILCS 40/1 et seq.**, and that owns, services, and maintains Video Gaming Terminals for placement in licensed establishments, licensed truck stop establishments, licensed large truck stop establishments, licensed fraternal establishments, or licensed veterans’ establishments.

(C) **Person.** Any natural individual that participates in an amusement, including a firm, organization, society, foundation, institution, partnership, association, joint stock company, joint venture, limited liability company, public or private corporation, receiver, executor, trustee or other representative appointed by order of any court, or any other entity recognized by law.

(D) **Play.** Each individual push of the Video Gaming Terminal which initiates the simulation provided by the Video Gaming Terminal. Play shall not include the push of individual wager amounts, selection of types of games on the Video Gaming Terminal or entry of any information or printing of winning receipts.

(E) **Video Gaming Terminal.** Any electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, 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 Illinois Gaming Board utilizing a video display and microprocessors in which the player 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.

36-10-3 **TAX IMPOSED.**

(A) Except as otherwise provided by this Article, an amusement tax is imposed upon any person who participates in the Play of a Video Gaming Terminal that takes place within the jurisdictional boundaries of the City.

(B) The rate of the tax shall be equal to **One Cent (\$0.01)** per Play on a Video Gaming Terminal.

(C) The Terminal Operator of a Video Gaming Terminal may separately itemize and charge each Person who Plays a Video Gaming Terminal.

36-10-4 **TAX ADDITIONAL.** The tax imposed in this Article is in addition to all other taxes imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

36-10-5 REGISTRATION.

(A) Every Terminal Operator of a Video Gaming Terminal(s) located in the City shall apply for registration as a tax collector with the City no later than **thirty (30) days** after commencing such business or **thirty (30) days** after the effective date of this Article imposing the Push Tax, whichever occurs later.

(B) The application shall be submitted to the City on the forms provided by the City and contain such information as reasonable required by the City to impose, collect, and audit all amounts related to the Push Tax.

36-10-6 COLLECTION, PAYMENT, AND ACCOUNTING.

(A) It shall be the joint and several duty of every Operator of a Video Gaming Terminal(s) to secure from each Person participating in the Play of a Video Gaming Terminal the Push Tax imposed by this Article.

(B) For purposes of this Article, it shall be presumed that the amount of the Push Tax imposed on each Person, unless the taxpayer or tax collector provides otherwise with books, records, or other documentary evidence, has been collected from the Person by the Terminal Operator.

(C) Push Tax payments accompanied by tax returns prescribed by the City shall be remitted to the City on or before the **twentieth (20th) day** of the month following the month in which payment for the Push Tax is made.

(D) Every Terminal Operator of a Video Gaming Terminal who is required to collect the Push Tax by this Article shall be considered a tax collector for the City. All Push Tax amounts collected shall be held by the Terminal Operator as trustee for and on behalf of the City. The failure of the Operator to collect the tax shall not excuse or release the Person from the obligation to pay the tax.

(E) The ultimate incidence of the Push Tax shall remain on the Person and shall never be shifted to the Terminal Operator.

(F) Notwithstanding any other provision of this Article, in order to permit sound fiscal planning and budgeting by the City, no person shall be entitled to a refund of, or credit for, the Push Tax imposed by this Article unless the person files a claim for a refund or credit within **one (1) year** after the date on which the Push Tax was paid or remitted to the City.

(G) The Terminal Operator of any Video Gaming Terminal(s) shall be subject to audit, inspection, and record keeping provisions of this Code.

(H) It shall be unlawful for any Terminal Operator and/or Person to prevent, hinder, or interfere with the City's Officials, employees, and/or agents designated to discharge their respective duties in the performance and performance and enforcement of the provisions of this Article.

(I) It is the duty of every Terminal Operator of a Video Gaming Terminal(s) to keep accurate and complete books and records to which the City's officials, employees, and/or agents will at all times have full access.

36-10-7 RULES AND REGULATIONS; AUTHORIZED. The City is authorized to adopt, promulgate, and enforce any additional rules and regulations pertaining to the interpretation, collection, administration, and enforcement of this Article.

36-10-8 APPLICATION OF CITY CODE. Any citation under this Article may be in addition to any other citations issued by the City under any and all applicable sections of the City Code.

36-10-9 VIOLATIONS; PENALTIES. It shall be a violation of this Article for a Terminal Operator to fail to file a report within the time prescribed in this Article.

(A) **Report Required.** A Terminal Operator who falsely reports or fails to report the amount of Push Tax due as required by this Article shall be in violation of this Article and is subject to the suspension and/or revocation of their Terminal Operator License. All payments not remitted when

due shall be paid together with a penalty assessment on the unpaid balance at a rate of **one and one-half percent (1.5%)** per month.

(B) **Suspension or Revocation of License.** The Local Liquor Commissioner or his or her designee shall have the power to suspend for not more than **thirty (300 days** or revoke any video gaming license issued under the provisions of this Article for cause, or if he/she determines that a Terminal Operator shall have violated any of the provisions of this Article, any of the statutes of the State or any other valid ordinance or resolution enacted by the corporate authorities of the City. However, no such license shall be revoked or suspended except after the holding of a public hearing by the Local Liquor Commissioner or his or her designee. **Ten (10) days'** notice of the hearing shall be given to the Terminal Operator. Alternatively, the Terminal Operator shall have the opportunity to engage in a prehearing conference and agree to negotiated penalties rather than proceed to a hearing.

(C) **Fine Imposed.** In addition, any Terminal Operator violating the provisions of this Article shall be subject to a fine of **Two Hundred Fifty Dollars (\$250.00)** for the first offense, and **Five Hundred Dollars (\$500.00)** for the second offense and **Seven Hundred Fifty Dollars (\$750.00)** for a third offense and subject to a revocation of any license to operate a Video Gaming Terminal for the third offense.

(D) Each day a violation continues shall constitute a separate violation.

(E) It shall be deemed a violation of this Article for any Person to knowingly furnish false or inaccurate information to the City.

(Ord. No. 23-2021; 10-31-21)

ARTICLE XI – SERVICE OCCUPATION TAX

36-11-1 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 this municipality at a rate of **one-half (1/2) of one percent (1%)** of the gross receipts from such sales made in the course of such business while this ordinance is in effect; and a tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of **one-half (1/2 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 Retailer’s Occupation Tax” and this “Home Rule Municipal Service 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.

This **one-half (1/2) of one percent (1%)** tax is in addition to the **one and one-half percent (1.5%)** tax previously imposed.

36-11-2 ILLINOIS DEPARTMENT OF REVENUE TO ADMINISTER. 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.

36-11-3 CLERK TO FILE ORDINANCE WITH ILLINOIS DEPARTMENT OF REVENUE. The Municipal Clerk is hereby directed to file a certified copy of this Article with the Illinois Department of Revenue on or before **October 1, 2023**.

36-11-4 EFFECTIVE DATE. This Article shall take effect on the first day of January of the next year following the adoption and filing of this Article with the Department of Revenue, if filed on or before the preceding October 1st.

(Ord. No. 27-2023; 09-11-23)

CITY OF HERRIN, ILLINOIS

MUNICIPAL GASOLINE TAX RETURN

For Filing Month of: _____ Due on or Before: _____

Name of Business: _____

Business Address: _____

City State Zip

Mailing Address: _____

City State Zip

State Identification Number: _____

Municipal Gasoline Tax – Herrin Ordinance No. 20-2004

NOTE: Gasoline measurement is necessary to complete this Return. If your records are in liter measurement, multiply the number of liters by .2641721 to convert to U.S. gallons

Pump No.	Type #	Beginning	Ending

Type #:

- 1. LEADED
- 2. UNLEADED
- 3. PREMIUM UNLEADED
- 4. GASOHOL
- 5. DIESEL

TOTAL NUMBER OF GALLONS: _____ *

COLUMN 4 LESS COLUMN 3: _____

*Transfer Total Gallons to Page 2, Line 1.

CHAPTER 37 – TAX INCREMENT FINANCING

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CHAPTER 37

TAX INCREMENT FINANCING

ARTICLE I – INTERESTED PARTIES REGISTRY

37-1-1 **DEFINITIONS.** As used in these Registration Rules, the following terms shall have the definitions set forth below.

(A) **“Act”** shall mean the Tax Increment Allocation Redevelopment Act **65 ILCS Sec. 5/11-74.4-1 et seq.** as amended from time to time.

(B) **“City”** shall mean the City of Herrin, a unit of government under Section 6(a) Article VII of the 1970 Constitution of the State of Illinois.

(C) **“Interested Party(s)”** shall mean (a) any organization(s) active within the City, (b) any resident(s) of the City, and (c) any other entity or person otherwise entitled under the Act to register in a specific Registry who has registered in such Registry and whose registration has not been terminated in accordance with these Registration Rules.

(D) **“Redevelopment Project Area”** shall mean a redevelopment project area that (a) is intended to qualify (or has subsequently qualified) as a “redevelopment project area” under the Act and (b) is subject to the “interested parties” registry requirements of the Act.

(E) **“Registration Form”** shall mean the form appended to these Registration Rules, or such revised form as may be approved by the City consistent with the requirements of the Act.

(F) **“Registry” or “Registries”** shall mean each interested parties registry, and all such registries, collectively, established by the City pursuant to Section 11-74.4-4.2 of the Act for a Redevelopment Project Area.

37-1-2 **ESTABLISHMENT OF REGISTRY.** The City shall establish a separate interested parties registry for each Redevelopment Project Area, whether existing as of the date of the adoption of these Rules or hereafter established. The City shall establish a new registry whenever it has identified an area for study and possible designation as a Redevelopment Project Area. In any event the process of establishing the new registry must be completed prior to the deadline for sending any of the notices required in **Section 37-1-10** of this Chapter or any other notices required by the Act with respect to the proposed Redevelopment Project Area.

37-1-3 **MAINTENANCE OF REGISTRY.** The Registries shall be maintained by the City Clerk or his or her designee. In the event the City determines that someone other than the Clerk should maintain the Registries, the City may transfer the responsibility for maintaining the Registries to such other Department provided that the City (a) gives prior written notice to all Interested Parties not less than **thirty (30) days** prior to such transfer and (b) publishes notice of such transfer in a newspaper of general circulation in the City.

37-1-4 **REGISTRATION BY RESIDENTS.** An individual seeking to register as an Interested Person with respect to a Redevelopment Project Area must complete and submit a Registration Form to the City Clerk. Such individual must also submit a copy of a current driver’s license, lease, utility bill, financial statement or such other evidence as may be acceptable to the Clerk to establish the individual’s current residency.

37-1-5 **REGISTRATION OF ORGANIZATIONS.** An organization seeking to register as an Interested Person with respect to a Redevelopment Project Area must complete and submit a

Registration Form to the City Clerk. Such organization must also submit a copy of a one-page statement describing the organization's current operations in the City.

37-1-6 **DETERMINATION OF ELIGIBILITY.** All individuals and organizations whose Registration Form and supporting documentation complies with these Registration Rules shall be registered in the applicable Registry within **ten (10) business days** of the City Clerk's receipt of all such documents. The Clerk shall provide written notice to the registrant conforming such registration. Upon registration Interested Parties shall be entitled to receive all notices and documents required to be delivered under these Rules or as otherwise required under the Act with respect to the applicable Redevelopment Project Area. If the City Clerk determines that a registrant's Registration Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the registrant specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Form and supporting documentation.

37-1-7 **RENEWAL AND TERMINATION.** An Interested Person's registration shall remain effective for a period of **three (3) years**. At any time after such **three (3) year** period, the City Clerk may provide written notice by regular mail to the Interested Person stating that such registration shall terminate unless the Interested Person renews such registration within **thirty (30) days** of the Clerk's mailing of written notice. To renew such registration, the Interested Person shall, within such **thirty (30) day** period, complete and submit the same Registration Form and supporting documentation then required of initial registrants in order to permit the Clerk to confirm such person's residency or such organization's operations in the City. The registration of all individuals and organizations whose Registration Form and supporting documentation is submitted in a timely manner and complies with these Regulation Rules shall be reviewed for an additional, consecutive **three (3) year** period. If the City Clerk determines that a registrant's renewal Registration Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the registrant at the address specified in the renewal Registration Form submitted by such registrant, specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Form and supporting documentation within **thirty (30) days** of receipt of the Clerk's notice. If all defects are not corrected within **thirty (30) days** of the Interested Person's receipt of the City Clerk's notice, the Interested Person's registration shall be terminated. Any Interested Person whose registration is terminated shall be entitled to register again as if a first-time registrant.

37-1-8 **AMENDMENT TO REGISTRATION.** An Interested Party may amend its registration by giving written notice to the City Clerk by certified mail of any of the following: (1) a change in address for notice purposes; (2) in the case of organizations, a change in the name of the contact person; and (3) a termination of registration. Upon receipt of such notice, the Clerk shall revise the applicable Registry accordingly.

37-1-9 **REGISTRIES AVAILABLE FOR PUBLIC INSPECTION.** Each Registry shall be available for public inspection during normal City business hours. The Registry shall include the name, address and telephone number of each Interested Person and for organizations, the name and phone number of a designated contact person.

37-1-10 **NOTICES TO BE SENT TO INTERESTED PARTIES.** Interested Parties shall be sent the following notices and any other notices required under the Act with respect to the applicable Redevelopment Project Area:

(A) pursuant to subsection 5/11-74.4-5(a) of the Act, notice of the availability of a proposed redevelopment plan and eligibility report, including how to obtain this information; such notice shall be sent by mail within a reasonable period of time after the adoption of the ordinance fixing the public hearing for the proposed redevelopment plan;

(B) pursuant to subsection 5/11-74.4-5(a) of the Act, notice of changes to proposed redevelopment plans that do not (1) add additional parcels of property to the proposed redevelopment

project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3)

substantially change the nature of or extend the life of the redevelopment project, or (4) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of the households will exceed 10; such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of such changes.

(C) pursuant to subsection 5/11-74.4-5(c) of the Act, notice of amendments to previously approved redevelopment plans that do not (1) add additional parcels of property to the redevelopment project area, (2) substantially affect the general land uses in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than **five percent (5%)** after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed 10; such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of such amendment.

(D) pursuant to subsection 5/11-74.4-5(d)(9) of the Act for redevelopment plans or projects that would result in the displacement of residents from **ten (10)** or more inhabited residential units or that contain **seventy-five (75)** or more inhabited residential units, notice of the availability of the certified audit report described in subsection 5/11-74.4-5(d), including how to obtain the annual report; such notice shall be sent by mail within a reasonable period of time after completion of the certified audit report.

(E) pursuant to subsection 5/11-74.4-6(e) of the Act, notice of the preliminary public meeting required under the Act for a proposed Redevelopment Project Area that will result in the displacement of **ten (10)** or more inhabited residential units or which contain **seventy-five (75)** or more inhabited residential units, such notice shall be sent by certified mail not less than **fifteen (15) days** before the date of such preliminary public meeting.

37-1-11 **NON-INTERFERENCE.** These Registration Rules shall not be used to prohibit or otherwise interfere with the ability of eligible organizations and individuals to register for receipt of information to which they are entitled under the Act.

37-1-12 **AMENDMENT OF REGISTRATION RULES.** These Registration Rules may be amended by the City subject to and consistent with the requirements of the Act.

(Ord. No. 6-2018; 04-09-18)

TIF INTERESTED PARTIES REGISTRATION FORM

Registration for City Residents: If you are a City of Herrin resident, and would like to register on the Interested Parties Registry for one or more tax increment financing (TIF) redevelopment project areas, please complete **Part A** of this form. Proof of residency is required. Please attach to this form a photocopy of one of the following: Driver's License, lease, utility bill, financial statement, or such other evidence as may be suitable to establish your current municipal residency.

Registration for Organizations: If your organization is active in the City of Herrin, and would like to register on the Interested Parties Registry for one or more tax increment financing (TIF) redevelopment project areas, please complete **Part B** of this form. Please attach a one-page statement which describes the organization's current operations in the municipality. Note: existing organizational documents that provide this information will also be accepted.

PART A: CITY RESIDENT REGISTRATION (Please Print)

Name: _____
Street Address: _____
City/State/Zip: _____
Home Telephone: _____

I have attached a copy of _____ as proof that I am a resident of the City of Herrin as of the date of this form.

Please list the TIF(s) you are interested in below:

Signature/Title _____ Date _____

Please return this form to:

TIF Interested Parties Registry
City Clerk – City of Herrin
300 N Park Ave
Herrin, IL 62948

PART B: ORGANIZATION REGISTRATION (Please Print)

Organization Name: _____
Street Address: _____
City/State/Zip: _____
Phone Number: _____

Check here _____ if a statement describing your organization's current operations in the City of Herrin is attached.

Please list the TIF(s) you are interested in below:

Signature/Title _____ Date _____

Please return this form to:

TIF Interested Parties Registry
City Clerk – City of Herrin
300 N Park Ave
Herrin, IL 62948

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CHAPTER 38

UTILITIES

ARTICLE I – DEPARTMENT ESTABLISHED

38-1-1 DEPARTMENT ESTABLISHED. There shall be an executive department of the City known as the **Utilities Department**. It shall include the Superintendent and employees of the Department. The designated office shall be the City Hall.

38-1-2 UTILITIES COMMITTEE. The City Council standing committee on Utilities shall exercise a general supervision over the affairs of the Departments. They shall ascertain the condition and needs thereof; and shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Departments.

38-1-3 SUPERINTENDENT. The Superintendent of Public Works shall be subject to the supervision of the Utilities Committee and shall be hereinafter be referred to as the **"Superintendent"**. 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 is appointed and qualified. He shall receive such salary as may be provided by the annual budget of the City Council at the time of his appointment.

38-1-4 DUTIES OF THE SUPERINTENDENT. The Superintendent shall exercise general management and control over his respective department.

(A) He shall supervise over and be responsible for the conduct and performance of all employees of the department as a Department Head in accordance with the Employee Code, if any.

(B) He shall be responsible for the operation and maintenance of the City's water system and sewer system as provided in this Code.

(C) He shall be the custodian of all vehicles, equipment, structures, and property provided by the City for the use of his department.

(D) He shall enforce the provisions of this Chapter and make such inspections, measurements, and tests as necessary for that purpose.

(E) He shall perform such other duties as may be assigned to him by the provisions of this Code or by the City Council.

ARTICLE II – UTILITY REGULATIONS

38-2-1 CONTRACT FOR UTILITY SERVICES.

(A) **Customer Accepts Service.** The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with water and sewer services from the waterworks and sewer system and every person, company or corporation, hereinafter called a “**customer**” who accepts and uses City water and sewer services shall be held to have consented to be bound thereby.

(B) **Not Liable for Interrupted Service.** The Department shall endeavor at all times to provide a regular and uninterrupted supply of service, however, in case the supply of service shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants or agents, the Departments shall not be liable therefor.

(C) **Using Utilities Without Paying.** Any person using utility services from the City without paying for the services, or who shall be found guilty of breaking any water meter or appurtenances or by-passing the water meter shall be guilty of a misdemeanor and upon conviction, shall be fined a sum as is provided in **Section 1-1-19** of this Code, unless for good cause shown the City Council passes a resolution making an express finding that the person or persons use of utility services, or any portion thereof, without paying for them was not the fault of that person or persons, and was instead the fault of the City, in which case the City Council may, by resolution, provide for the continued provision of services to said person for a period not to exceed **ninety (90) days** from the date of billing within which said person must bring the account current or otherwise suffer the consequences of this and other related ordinances. **(Ord. No. 27-93; 09-29-93)**

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the waterworks system and sewer system, or erecting signs on the property of the Department without permission shall, upon conviction of such act, be fined as provided in **Section 1-1-20** of the Revised Code.

(E) **Service Obtained By Fraud.** All contracts for water and sewer services shall be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills, or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the deposit as may be necessary to satisfy the unpaid obligation shall be retained by the City and credited to the appropriate account.

(F) **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the department fail to bill a customer for services used during any given month, this fact shall not invalidate the debt-owing to the department by the unbilled services used during any given month shall be charged and properly billed within **one (1) year** of their rendering.

(G) **Request to Discontinue Service.** Services shall have been deemed to have been supplied to any property connected to the Water and Sewer Systems during a month unless the customer notifies the City prior to the first day of the new billing month in which the services are to be discontinued.

(H)

Billing; Utility Shut-off.

- (1) All bills for utility services shall be due on the **twentieth (20th)** of each month and if bill is not paid on or before that date, 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 the utility services.
- (2) Any customer who fails to pay the utility bills by the **first (1st) of the next month**, shall have the utility services disconnected. Once utility services have been disconnected, the same shall not be again connected or used until all delinquent accounts and bills of service are paid in full including a reconnect fee of **Fifty Dollars (\$50.00)** for reconnect between the hours of **8:00 A.M.** and **4:00 P.M.** Monday through Friday. Holidays and weekends there will not be any reconnects due to non-payment. Also, if water has been disconnected due to non-payment for more than **sixty (60) days**, a new codes inspection must be performed, an inspection fee of **Twenty-Five Dollars (\$25.00)** paid and a new occupancy permit required.

(Ord. No. 36-2020; 09-28-20)

(J) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Clerk shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the municipality claims a lien for this amount to the period covered by the bill.

If the consumer of utility services whose bill is unpaid is not the owner of the premises and the Treasurer has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Clerk whenever such bill remains unpaid for a period of **thirty (30) days** after it has been rendered.

The failure of the Clerk to record such lien or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned herein. **(See 65 ILCS 5/11-139-8)**

(K) **Foreclosure of Lien.** Property subject to a lien for unpaid utility charges may be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill-in-equity in the name of the City.

The City Attorney is hereby authorized to institute such proceedings in the name of the City in any Court having jurisdiction over such matters against any property for which the bill for utility services has remained unpaid **ninety (90) days** after it has been rendered. **(See 65 ILCS 5/11-139-8)**

(L) **Bill Adjustments.** A customer may receive **one (1)** water bill adjustment per **twelve (12) month** period if water usage spike is greater than or equal to a minimum of **six thousand (6,000) gallons** over the average of the last **six (6) months** bills. The adjustment will be on the water portion only. The adjustment will only be credited on **one (1) months** billing cycle.

The bill adjustment shall be determined by the following method:

The average water usage (A) shall be calculated by taking the sum of the previous **six (6) bills** of metered water volume (C) divided by 6. Where A = average water usage in gallons and C = previous 6 water bills usage in gallons, $[A=C/6]$. The previous **six (6) bills** usage (C) will be determined by back dating beginning from the **first (1st)** prior bill in which the usage spike occurred. If the usage spike is greater than or equal to **six thousand (6,000) gallons**

over the average (A), then a water adjustment will be calculated from the current water rate scale in effect. If the usage spike is less than **six thousand (6,000) gallons** over the average (A) as determined above, then no bill adjustment is permitted. A water customer must make a formal request for an adjustment prior to the due date of the current water bill. To receive the adjustment credit to your bill, you must appear in person and sign for the credit adjustment.

This method does not apply to municipal, governmental or industrial accounts that have an individual contract agreement with the City. Their provisions are in their respective contracts.

(Ord. No. 3-2021; 04-12-21)

38-2-2 CONSUMER LISTS. It is hereby made the duty of the Clerk to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving utility services, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises. It shall be presented at the regular monthly meeting if requested.

38-2-3 FILED IN RECORDER OF DEEDS. A copy of this Chapter properly certified by the City Clerk, shall be filed in the office of the Recorder of Deeds of the County, and shall be deemed notice to all owners of real estate of liability for service supplied to any user of the service of the waterworks system of said City on their properties.

38-2-4 LIABILITY FOR CHARGES. The owner of any lot, parcel of land or premises and the user of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises, and all services are rendered to the premises by the City only on the condition that such owner, occupant and user shall be jointly and severally liable therefor to the City.

38-2-5 ESTIMATED CHARGE. Whenever any meter, by reason of its being out of repair or from any cause fails to properly register the utilities passing through the same, the consumer shall be charged the average charge of the **previous three (3) months usage.** If no record of the previous **three (3) months** exists, then it shall be the duty of the Water Clerk to estimate the amount of utilities consumed during the time the meter fails to operate and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

38-2-6 NO FREE UTILITY SERVICE. No free utility service shall be furnished to any person, public or private, and all rates and charges shall be non-discriminatory, provided that the Mayor and City Council reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

38-2-7 METER MALFUNCTION. Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of **Twenty Dollars (\$20.00)**. If upon test the meter is not within **three percent (3%)** of being accurate, it shall be repaired or replaced and the **Twenty Dollar (\$20.00)** fee returned to the consumer.

38-2-8 UTILITY DEPOSITS. Each application shall be accompanied by a deposit to insure payment of all bills. The amount of the deposit shall be determined as follows:

(A)	Dwelling	\$100.00
(B)	Apartment buildings containing one (1) or more units	\$100.00 per unit
(C)	Service stations without a wash rack	\$100.00
(D)	Laundries, Laundromats, commercial car washes, hotels and motels	\$200.00
(E)	Factories	\$200.00
(F)	Restaurants, Drive-In Restaurants	\$200.00
(G)	Gasoline service stations with wash rack	\$200.00

A reconnect fee shall also be due for reconnection of all services of **Fifty Dollars (\$50.00)** for reconnect between the hours of **8:00 A.M.** and **4:00 P.M.** Monday through Friday. Holidays and weekends there will not be any reconnects due to non-payment. Also, if water has been disconnected due to non-payment for more than **sixty (60) days**, a new codes inspection must be performed, an inspection fee of **Twenty-Five Dollars (\$25.00)** paid and a new occupancy permit required. Where the amount of the deposit provided above is not sufficient to adequately protect the Water Department, a greater amount than stated above may be required, based on the consumer’s estimated bill for a customary billing period.

All deposits will be retained by the Water Department so long as the depositor is a customer. When service is discontinued, the deposit, less any amount due the City for water service shall be refunded without interest. **(Ord. No. 4-2020; 09-14-20)**

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 Herrin or where such authority is specifically delegated, the Superintendent of the Water and Sewer Department.
- (D) **"Person"** shall mean any and all persons, natural or artificial, including any individual, firm or company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.
- (E) **Clarification of Word Usage.** **"Shall"** in mandatory; **"may"** is permissible.
- (F) **Water and Its Characteristics.**
- (1) **"ppm"** shall mean parts per million by weight.
 - (2) **"milligrams per liter"** shall mean a unit of the concentration of water constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water analysis.
 - (3) **"PH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.
- (G)
- (1) **"Curb Cock"** shall mean a shutoff valve attached to a water service pipe from a water main to a building installed near the curb, which may be operated by a valve key to start or stop flow in the water-supply lines of a building. Also called a curb stop.
 - (2) **"Easement"** shall mean an acquired legal right for the specific use of land owned by others.
 - (3) **"Service Box"** shall mean a valve box used with corporation or curb cock.
- (H) **Types of Charges.**
- (1) **"Water Service Charge"** shall be the charge per quarter or month levied on all users of the Water Facilities. The service charge shall be computed as outlined in this Article, and shall consist of the total of the Basic User Charge and the Local Capital Cost if applicable.
 - (2) **"User Charge"** shall mean a charge levied on users of water works for the cost of operation, maintenance and replacement.
 - (3) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public water system.

- (4) ***"Debt Service Charge"*** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.
- (5) ***"Capital Improvement Charge"*** shall mean a charge levied on users to improve, extend or reconstruct the water works.
- (6) ***"Local Capital Cost Charge"*** shall mean charges for costs other than the operation, maintenance and replacement costs, i.e. debt service and capital improvement costs.
- (7) ***"Replacement"*** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (8) ***"Useful Life"*** shall mean the estimated period during which the water works will be operated.
- (9) ***"Water and Sewer Fund"*** is the principal accounting designation for all revenues received in the operation of the water system.

38-3-2 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM. An applicant desiring a water tap or service connection with the Waterworks System of the City shall file a written application at the City Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application. **(See Appendix #1)**

38-3-3 ALL SERVICE TO BE BY METER. All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Water and Sewer Committee. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

38-3-4 REMOVAL OF METERS. All meters shall remain the property of the department and may be removed from the customer's premises at any time without notice for the purpose of testing and repairing the same or upon discontinuance of service. Upon discovery of any 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.

38-3-5 INSTALLING AND MAINTAINING SERVICE LINES. The user shall be responsible for installation and maintenance of service lines between the meter and the residence or business. Such service lines must be at least **three-fourths (3/4) inch** in diameter, and must be installed at a minimum depth of **three (3) feet**. Service lines must have a minimum working pressure rating of **160 psi at 73.4 degrees F** and must be constructed of one of the following types of materials: Copper, (Type K), polyvinyl chloride (PVC), polyethylene or polybutylene. Service lines shall not be covered until they are inspected and approved by the Superintendent.

The user shall not connect any service line or any plumbing connected with the service line to any other water source. The service line shall meet all requirements of the Illinois Environmental Protection Agency's rules and regulations, the Illinois Plumbing Code, and the regulations in this Chapter.

38-3-6 INSPECTION.

(A) **Access to Premises.** The City shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus in any manner connected to the Waterworks System of the City. The City shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would in any manner affect the water supply or system of the City or the supply or fixtures of other consumers.

(B) **Meters to be Open to Inspection.** All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the City shall be open to the inspection of the proper officers and employees of the City at all reasonable hours.

38-3-7 METER DAMAGED. Whenever a meter is found to have been damaged by hot water being forced back into it from the consumer's hot water or heating apparatus or for any other cause within control of the consumer, the consumer shall pay the City for the actual cost of the removal, repair, and replacement of the damaged meter and all previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order for such damage.

38-3-8 DAMAGE DUE TO INTERRUPTION OF SERVICE; LIABILITY. All connections for the water services applied for hereunder and all connections now attached to the present City Waterworks System and all use or service of the system shall be upon the express condition that the City shall not be liable for nor shall any claim be made against it for damages or injury caused by reason of the breaking of any main, service, pipe, apparatus or appurtenance connected with the Waterworks System or for any interruption of the supply of water by reason of the breaking of machinery or by reason of stoppages, alterations, extensions or renewals.

38-3-9 RESALE OF WATER. No water supplied by the waterworks system shall be resold by any user. No water user may supply water to other families or allow them to take it, except for use on the premises and for the purpose specified in such user's approved application, nor after water is introduced into any building or upon any premises shall any person make or employ any other person to make any tap or connection with work upon the premises for alterations, repairs, extension or attachments without written permit therefore. Resale or unauthorized use of water shall be grounds for discontinuance of water service to the user, or the premises, or both.

38-3-10 DISCONTINUING SERVICE - DANGEROUS USAGE. The City shall have the right to refuse water service or to discontinue water service, without notice, at any time to any consumer if the City finds any apparatus or appliances, the operation of which will be detrimental to the water system of the City or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that cause water hammer or any danger to the water system or other customer's plumbing shall be immediately repaired or removed upon notice from the City, or, at its option, the City may immediately discontinue service without notice and without any liability for direct or resulting damages therefrom.

38-3-11 ELECTRIC GROUND WIRES. All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be connected to any water service pipe, water meter, or water main belonging to the City.

The City shall hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the City caused by such ground wire. Any and all owners and consumers shall remove any existing ground wires immediately upon written notice from the City. If not so disconnected **five (5) days** after notice, the City, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

38-3-12 **WATER FOR BUILDING OR CONSTRUCTION PURPOSES.** Applicants desiring to use water from the City Waterworks System for building or construction purposes shall make application therefor to the Superintendent on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent.

38-3-13 **FIRE HYDRANTS.**

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the City Limits, shall be owned, maintained and used only by the City and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the City and after approved application to the City.

(B) The City shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the City Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the City Limits owned by the City shall be maintained in as good order as reasonably possible, but the City will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the City may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

38-3-14 **LIMITED WATER USAGE IN EMERGENCIES.**

(A) The Mayor is hereby authorized to proclaim the existence of an emergency whenever it appears that the City water supply is inadequate for all general uses and purposes, which proclamation shall be published in a newspaper of general circulation in the community and the Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the publication of a proclamation as provided for in subsection (A) of this Section, the following uses of water shall be prohibited:

- (1) the washing of cars and other vehicles;
- (2) the sprinkling of lawns and shrubbery;
- (3) the watering of gardens;
- (4) other nonessential uses;

and it shall be unlawful for any person to so use water from the City supply during such an emergency.

38-3-15 **SHORTAGE AND PURITY OF SUPPLY.** The City shall not be held responsible for or in any manner liable to any person, company, consumer or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shutoff of water for any reason, any bursting or leakage of either the consumer's or City's mains, pipes and fixtures, any pollution or impurity in water supply or any fire or water damage.

38-3-16 **NON-COMPLIANCE WITH RULES AND REGULATIONS.** If any consumer fails to comply with any of the rules and regulations in force, the City shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time,

the City shall have the right to discontinue service. Except in case of non-payment, emergency, necessity, or as otherwise provided, the City will not discontinue service for violation of any rule until **five (5) days** after notice has been given and the violation has not been remedied.

38-3-17 **EASEMENTS.** The consumer shall give such easements and rights-of-way as necessary to the City and allow access for the purpose of construction, repair, maintenance, meter reading, relocation or expansion of the water system. The necessity shall be determined by the Superintendent.

38-3-18 **USE OF WATER ON CONSUMER'S PREMISES.** The City shall reserve the right to use the water from the consumer's facilities at any time deemed necessary. No charge shall be made by the consumer for the use of the facilities and no charge shall be made by the City for the water used by the City.

38-3-19 **ALLOCATION OF MAINTENANCE COSTS BETWEEN USER AND CITY.** The City shall maintain and repair all water service pipes between the water mains and the curb lines. Any repairs to service lines or taps between the water mains and the sidewalk or property line shall be the City's expense. Any repairs or renewals of water service pipes between the property line or curb line and extending to the owner's premises shall be made at the sole expense of the consumer or owner of the premises.

38-3-20 **CITY NOT LIABLE FOR INTERRUPTION OF SUPPLY.** The City shall have the right to shut off the supply of water whenever it is necessary to make repairs, improvements, enforce rules or for any notice as circumstances allow, will be given to consumers but in emergencies, the water may be shut off without notice. All hot water faucets shall be left open during any shut-off to prevent damage to plumbing. Such necessary work will be done as rapidly as may be practical and whenever feasible at such times as will cause the least inconvenience. The City shall not be held responsible for or liable because of any shut-off of supply for any direct or resultant damages to any person, company or consumer or to any pipe, fixtures, or plumbing.

Water for steam boilers, gas engines, ice plants, or other industrial use, shall not be furnished by direct pressure from the mains, but only to tanks holding ample reserve supply. Should any equipment be supplied direct from mains, then in case of any shutoff of water, the City will not be held responsible or liable for any direct or resulting damage because of interrupted supply, insufficient pressure, or otherwise.

Whenever water mains, pipes and service connections are taken up, shut-off or interfered with by reason of any City street improvements, the City will endeavor to maintain service so far as reasonably possible, but will not be directly or indirectly liable for any interruption, poor pressure, or damage of any kind either to consumers, adjacent or to other consumers affected thereby.

38-3-21 **WATER WELL PERMITS REQUIRED.** It shall be unlawful to drill a water-well in the City without the proper permits from the State of Illinois and the City Council. All wells shall comply with the Cross-Connection Code in this Chapter. No wells shall be drilled when the property is within **two hundred (200) feet** of the municipal water main.

38-3-22 **ABANDONED CONNECTION.** Whenever any connection to the waterworks system is abandoned, because the building to which the water connection is made has been abandoned, destroyed or removed, the Superintendent may remove the meter and any pipe or connections in the public right-of-way or easement, and cap, plug or otherwise seal the pipe or main. Before taking any such steps the Superintendent shall notify the owner of the real estate if the owner's name and address is

known, and shall notify the person shown on the real estate tax records as having paid taxes on the property the last time taxes were paid. Such notice shall be made by mail, at least **thirty (30) days** before any action is taken under this Section. If water is leaking, the Superintendent shall take immediate action, and send the notices within **three (3) working days** of the time action was taken.

38-3-23 ALTERNATIVE WATER SOURCE. Any customer with critical water requirements shall have an alternate water source. Failure to provide such shall be considered a violation of customer rules and loss or damages resulting therefrom shall be the responsibility of the customer. Those customers shall include but not be limited to manufacturers, hospitals, nursing homes, schools, greenhouses, hatcheries or any other building or business which might suffer any type of loss due to interruption of water service.

The City expressly stipulates with all customers and other persons who may be affected by the discontinuance of service that it will neither insure nor be responsible or liable in any manner for any loss or damages, direct or indirect, by reason of fire or any other cause and all water service furnished shall also be conditional upon acts of God, inevitable accidents, failure of supply, fire, strikes, riots or any other causes.

38-3-24 RULES TO BECOME PART OF CONTRACT. All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the City, subject thereto and bound thereby.

38-3-25 - 38-3-30 RESERVED.

DIVISION II - CROSS-CONNECTION ADMINISTRATION

38-3-31 APPROVED BACKFLOW DEVICE. All plumbing installed within the City shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

38-3-32 CROSS-CONNECTION PROHIBITED; EXCEPTION. No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

38-3-33 INVESTIGATIONS BY SUPERINTENDENT. It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record

and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-3-34 **RIGHT TO ENTER PREMISES.** The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

38-3-35 **NOTICE TO CUSTOMER; RECONNECT FEE.**
 (A) The City Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **One Hundred Dollars (\$100.00)** is paid to the City Clerk.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

38-3-36 **CONTAMINATIONS COST AND THE CONSUMER.** The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

(Ord. No. 31-87; 09-28-87)

38-3-37 - 38-3-40 **RESERVED.**

DIVISION III - CROSS-CONNECTION CONTROL CODE

38-3-41 **PURPOSE.** The purpose of these Rules and Regulations is:

(A) To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

38-3-42 **APPLICATION.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

38-3-43 **RESPONSIBILITY OF OWNER.** The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customers water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in **Section 38-3-47(D)** below for a period of at least **five (5) years**. The Superintendent may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

38-3-44 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of these regulations:

"Fixed Proper Air Gap" means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

"Agency" means Illinois Environmental Protection Agency.

"Approved" means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

"Auxiliary Water System" means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

“Backflow” means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

“Backflow Prevention Device” means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

“Consumer” or “Customer” means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

“Consumer's Water System” means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

“Contamination” means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

“Cross-Connection” means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

“Direct Cross-Connection” means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

“Indirect Cross-Connection” means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

“Double Check Valve Assembly” means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

“Health Hazard” means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

“Inspection” means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

“Non-potable Water” means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

“Plumbing” means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

"Pollution" means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

"Potable Water" means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

"Potential Cross-Connection" means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

"Process fluid(s)" means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

"Reduced Pressure Principle Backflow Prevention Device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

"Service Connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Survey" means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

"System Hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

“Used Water” means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

“Water Purveyor” means the owner or official custodian of a public water system.

38-3-45 WATER SYSTEM.

(A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

38-3-46 CROSS-CONNECTION PROHIBITED.

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

38-3-47 SURVEY AND INVESTIGATIONS.

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent for the verification of information submitted by the consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with **Ill. 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. serving performed and date completed.

38-3-48 WHERE PROTECTION IS REQUIRED.

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

- (1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent and the source is approved by the Illinois Environmental Protection Agency.
- (2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent.
- (3) Premises having internal cross-connections that, in the judgment of the Superintendent, are not correctable or intricate plumbing arrangements which make it impractical to determine whether or not cross-connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent determines that no actual or potential hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.
- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

38-3-49 **TYPE OF PROTECTION REQUIRED.**

(A) The type of protection required under **Section 38-3-48** of these regulations shall depend on the degree of hazard which exists as follows:

- (1) An approved fixed proper air gap separation shall be installed where the public water supply system may be contaminated with substances that could cause a severe health hazard.
- (2) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
- (3) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly or a double check valve assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(B) The type of protection required under **Section 38-3-48** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention device.

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

- (1) The fire safety system contains antifreeze, fire retardant or other chemicals;
- (2) water is pumped into the system from another source; or
- (3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
- (4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

38-3-50 **BACKFLOW PREVENTION DEVICES.**

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

38-3-51 INSPECTION AND MAINTENANCE.

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by these regulations are installed to have inspection, tests, maintenance and repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions.

- (1) Fixed proper air gap separations shall be inspected to document that a proper vertical distance is maintained between the discharge point of the service line and the flood level rim of the receptacle at the time of installation and at least annually thereafter. Corrections to improper or by passed air gaps shall be made within 24 hours.
- (2) Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within **five (5) days**.
- (3) Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer, and required service performed within **five (5) days**.

(B) Testing shall be performed by a person who has been approved by the Agency as competent to service the device. Proof of approval shall be in writing.

(C) Each device shall have a tag attached listing the date of most recent test or visual inspection, name of tester, and type and date of repairs.

(D) A maintenance log shall be maintained and include:

- (1) date of each test or visual inspection;
- (2) name and approval number of person performing the test or visual inspection;
- (3) test results;
- (4) repairs or servicing required;
- (5) repairs and date completed; and
- (6) servicing performed and date completed.

(E) Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay as required by **Section 38-3-41(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

38-3-52 BOOSTER PUMPS.

(A) Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cut-off device designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.

(B) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Superintendent, at least once a year, that the device is operable.

38-3-53 VIOLATIONS AND PENALTIES.

(A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the

Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.

(C) Neither the City, the Superintendent, or its agents or assigns, shall be liable to any customers of the City for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this ordinance, whether or not said termination of the water supply was with or without notice.

(D) The consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

(E) Any person found to be violating any provision of this Code shall be served with written notice stating the notice of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(F) Any person violating any of the provisions of this Code in addition to the fine provided, shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation, whether the same was caused before or after notice.

38-3-54 - 38-3-60

RESERVED.

DIVISION IV – USE OF GROUNDWATER AS A POTABLE WATER SUPPLY PROHIBITED

38-3-61 USE OF GROUNDWATER AS A POTABLE WATER SUPPLY PROHIBITED.

Except for such uses or methods in existence before the effective date of this Division, the use or attempt to use groundwater from within the corporate limits of the City as a potable water supply, by the installation or drilling of wells or by any other method, is hereby prohibited. This prohibition expressly includes the City of Herrin.

38-3-62 PENALTIES. Any person violating the provisions of this Division shall be subject to a fine of up to **Seven Hundred Fifty Dollars (\$750.00)** for each offense.

38-3-63 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.

(Ord. No. 11-2010; 07-12-10)

DIVISION V - EXTENSION OF MAINS

38-3-64 **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. All extensions shall comply with the "Standard Specifications for Water & Sewer Construction in the State of Illinois". **(See Appendix #2)**

38-3-65 **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.

38-3-66 **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.

38-3-67 **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.

38-3-68 **MAINTENANCE AND REPLACEMENT.** The City, at its own expense, shall maintain and when necessary, replace the City-owned mains used to supply water to its customers, and if adequate service requires the reconstruction or replacement of such mains, the mains shall be reconstructed or replaced by the City at its expense.

38-3-69 **RESERVED.**

DIVISION VI – WATER RATES

38-3-70 **BUILDING UNIT DEFINED.** All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

38-3-71 **WATER REVENUES.** All revenues and moneys derived from the operation of the Water system shall be deposited in the water account of the water fund. All such revenues and moneys shall be held by the City Treasurer separate and apart from its private funds and separate and apart from all other funds of the City Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may from time to time be directed by the City Council. The City Treasurer shall receive all such revenues from the water system and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewer System Fund of the City". The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

38-3-72 **WATER ACCOUNTS.** The City Treasurer shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the system, and at regular annual intervals shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water system. In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the water facilities, including a replacement cost. The financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the water plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed per fiscal year.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.

38-3-73 **ACCESS TO BOOKS.** The Illinois Environmental Protection Agency or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City system of user charges for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of any Loan Agreement with the City.

38-3-74 **NOTICE OF RATES.** A copy of this Article, properly certified by the City Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the sewer system of the City on their properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to sewer treatment services.

38-3-75 **APPEALS.** The method for computation of rates and service charges established for user charges in **Article IV Division I** shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

38-3-76 **ADEQUACY OF SERVICE CHARGES.** The adequacy of the water service charge shall be reviewed, not less often than annually by the City Council with assistance if requested by the Council from the City Engineer and any accountant performing audit services for the City. The water service charge rates shall be revised periodically to reflect the change in local capital costs or operation, maintenance and replacement costs. The rates established by the City from time to time shall include a basic user charge, a debt service charge, and a capital improvement charge. The basic user charge is levied on all users to recover the operation, maintenance plus replacement (O, M & R) costs and shall be based on water usage as recorded by water meters. The basic user charge shall be computed as follows:

- (A) Estimate the annual water volume;
- (B) Estimated the projected annual revenue required to operate and maintain the water facilities, including a replacement fund for the year, for all works categories;
- (C) Compute costs per **one thousand (1,000) gallons**.

The debt service charge is computed by apportioning the annual debt service as a charge per **one thousand (1,000) gallons**. The capital improvement charge is levied on users to provide for capital improvements, extensions or reconstruction of the water works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per **one thousand (1,000) gallons**.

38-3-77 COMPUTATION. The method for computation of rates and service charges established for user charges in this Article shall be made available to a user within **twenty (20) days** of receipt of a written request for such. Any disagreement over the method used or in the computations thereof shall be remedied by the City within **forty-five (45) days** after notification of a formal written appeal outlining the discrepancies.

38-3-78 WATER SERVICE CONNECTIONS. The water service tap connection fee shall be as follows:

	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
¾" Water Connection	\$1,000.00	\$1,800.00
1" Water Connection	\$1,400.00	\$2,400.00

The City will run **fifty (50) feet** of water pipe, and all pipe exceeding **fifty (50) feet** shall be billed to the applicant. Customer shall be responsible for the cost to directional bore service piping as permitted under existing highways and paved areas.

If a water connection is over **one (1) inch** in size, the applicant shall pay for the time and materials used in the installation, plus **ten percent (10%)** prior to the installation of the meter and connection. The cost of maintenance of all meters in excess of **one (1) inch** shall be the responsibility of the user, up to and including replacement.

All connections outside the corporate limits of the City shall be approved by the City Council.
(Ord. No. 25-2022; 10-24-22)

38-3-79 INDIVIDUAL CUSTOMER DEFINED.

(A) As to buildings containing multiple dwelling units and using only **one (1) water meter**, the responsible party or parties (owner, lessee, sub lessee, etc.) shall, upon activation of water service, pay fees as set forth in this Code for **one (1) water, sewer and trash charge per dwelling unit**, meaning for each duplex there shall be **two (2) water, sewer and trash charges**, for each triplex there shall be **three (3) water, sewer and trash charges**, and so forth regardless of occupancy.

(B) As to buildings which are newly-constructed or converted from single unit dwelling(s) to multiple-unit dwellings **subsequent to the date of enactment of this Section**, each dwelling unit of such building(s) shall contain a separate individual water tap and a separate individual water meter.
(Ord. No. 17-2010; 10-25-10)

38-3-80 WATER RATES. There shall be and there are hereby established rates and charges for the use of and for the water supplied and furnished by the water works system of the City, based on the amount of water consumed, as shown by water meters, as follows:

(A) **Inside City Rate Effective May 2024 Billing Cycle:**

First	2,000 gallons or less	\$22.39 MINIMUM CHARGE
Next	2,000 gallons	7.75 per 1,000 gallons
Next	4,000 gallons	7.41 per 1,000 gallons

Next	92,000 gallons	6.99 per 1,000 gallons
Next	300,000 gallons	5.87 per 1,000 gallons
Next	600,000 gallons	4.59 per 1,000 gallons
Next	1,000,000 gallons	4.51 per 1,000 gallons

(B) **Outside City Rate Effective May 2024 Billing Cycle:**

First	2,000 gallons or less	\$34.89 MINIMUM CHARGE
Next	2,000 gallons	11.45 per 1,000 gallons
Next	4,000 gallons	10.94 per 1,000 gallons
Next	92,000 gallons	10.32 per 1,000 gallons
Next	300,000 gallons	8.66 per 1,000 gallons
Next	600,000 gallons	6.75 per 1,000 gallons
Next	1,000,000 gallons	6.65 per 1,000 gallons

(C) **Municipalities and Villages.** Water supplied and furnished to other municipalities and villages which make distribution through the distribution systems of such municipalities and villages shall be supplied at a rate of **Four Dollars Thirty-Six Cents (\$4.36)** per **one thousand (1,000) gallons** effective with the May 2024 billing cycle.

(D) **Debt Service Charge.** A debt service charge of **Three Dollars Ninety-Five Cents (\$3.95)** per user per month, to each user of water of the City is hereby established. A Capital improvement charge will be levied on all users as a fixed charge of **One Dollar (\$1.00)** per month to provide funds for extension, improvements or reconstruction of the water infrastructure.

(E) **Pass-through Source Supply Rate Increase.** Each year water rates will be reviewed and if our water supply source increases rates, the rate increase will be passed on to all customer classes inclusive of minimum users.

(Ord. No. 3-2024; 03-09-24)

38-3-81 FIRE CONNECTIONS.

(A) Service connection for water to be taken for the extinguishment of fire shall be made only upon terms approved by the Public Works Superintendent. These terms shall include pipe size, rates and any other information needed for mutual agreement.

(B) The following fee shall be collected each month for unmetered fire connections to the public water supply of Herrin:

- (1) Automatic sprinkler systems shall be **Twenty-Five Dollars (\$25.00)** per connection.

(C) A separate line (tap) shall be established for fire line and potable water. Calculations shall be submitted to determine property line sizing prior to construction.

(Ord. No. 14-2023; 04-24-23)

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ARTICLE IV - WASTEWATER SYSTEM

DIVISION I - DEFINITIONS

38-4-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"GOVERNMENT, FEDERAL".

(A) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B) **"Federal Act"** means the Federal Clean Water Act (**33 U.S.C. 466 et seq**) as amended, (**Pub. L. 95-217**).

(C) **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

"GOVERNMENT, LOCAL".

(A) **"Approving Authority"** shall mean the Superintendent of the City or his authorized deputy, agent, or representative.

(B) **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C) **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

(D) **"Inspector"** shall mean the Superintendent or other person or persons duly authorized by the City to inspect and approve the installation of building sewer and their connection to the sanitary sewer system.

"GOVERNMENT, STATE".

(A) **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B) **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C) **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

"CLARIFICATION OF WORD USAGE". "Shall" is mandatory; "may" is permissible.

"WASTEWATER TYPES AND APPURTENANCES".

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five (5) feet (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive sewer, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewer within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean the system of sewer and appurtenances for the collection, transportation and pumping of sewage.

(H) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(I) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewer.

"TREATMENT":

(A) **"Pretreatment"** shall mean the treatment of sewer from sources before introduction into the sewer treatment works.

(B) **"Sewer Treatment Works"** shall mean an arrangement of devices and structures for treating sewer, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "sewer treatment plant" or "pollution control plant".

"TYPES OF CHARGES":

(A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system.

(B) **"Capital Improvement Charge"** shall mean the charge levied on users to improve, extend or reconstruct the sewage treatment works.

(C) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(D) **"Local Capital Cost Charge"** shall mean charges for costs other than the Operation, Maintenance and Replacements costs, i.e. debt service and capital improvement costs.

(E) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(F) **"Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the sewer system.

(G) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.

(H) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation, maintenance and replacement.

(J) **"Sewer Service Charge"** shall be the charge per quarter or month levied on all users of the Sewer Facilities. The service charge shall be computed as outlined in Article IV of this Code and shall consist of the total or the Basic User Charge, the local capital cost and a surcharge, if applicable.

(K) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

"USER TYPES":

(A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the City representative to sample and/or measure discharges.

(B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

(C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings.

(D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.

(E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

(F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

"WASTEWATER FACILITIES" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

"WATERCOURSE AND CONNECTIONS":

(A) **"Watercourse"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(B) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"WASTEWATER AND ITS CHARACTERISTICS":

(A) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days at 20 degrees centigrade (20°C)**, expressed in milligrams per liter.

(B) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".

(C) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from sewer by treatment in an approved pretreatment facility. A sewer shall be considered free of floatable fat if it is properly pretreated and the sewer does not interfere with the collection system.

(D) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(E) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

(F) **"Major Contributing Industry"** shall mean any non-governmental user of the publicly owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average work day; or
- (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
- (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

(G) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or sewer constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and sewer analysis.

(H) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(I) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

(J) **"ppm"** shall mean parts per million by weight.

(K) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried

freely under the flow conditions normally prevailing in public sewer, with no particle greater than **one (1/2) half inch (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "sewer".

(M) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes more than five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(N) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the I.E.P.A. Division of Laboratories Methods.

(O) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewer and sewer treatment facilities provided.

(P) **"Sewer"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

38-4-2 - 38-4-3 RESERVED.

DIVISION II - USE OF PUBLIC SEWERS REQUIRED

38-4-4 DEPOSIT OF WASTES PROHIBITED. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

38-4-5 WASTEWATER IN NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the City, or in area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Code.

38-4-6 PRIVATE SYSTEM, UNLAWFUL. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. This exception does not exclude or limit the use of portable toilets by Civic Organizations for use during public activities. When portable toilets are used, they shall not be used by any one organization for more than **ninety (90) day** period. Portable toilets shall not be placed within **one hundred fifty (150) feet** of any houses, or buildings. Portable toilets shall be emptied, cleaned, and sanitized a minimum of once a week or sooner, if required. Any organization which allows such toilets to become unsanitary or a nuisance shall be subject to the penalties as stated in **Division VIII** of this Code.

38-4-7 CONNECTION TO SYSTEM REQUIRED. The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary 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 **three hundred feet (300') (91.5 meters)** of the property line.

38-4-8 **MAINTENANCE COSTS.** All costs and expenses directly or indirectly occasioned by the installation, connection, and maintenance of a lateral sewer line shall be borne by the property owner. The property owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, connection, and maintenance of a lateral sewer line. This Section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

38-4-9 **RESERVED.**

DIVISION III - PRIVATE SEWAGE DISPOSAL

38-4-10 **PRIVATE SEWAGE SYSTEM.** Where a public sanitary sewer is not available under the provisions of **Section 38-4-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

38-4-11 **HEALTH DEPARTMENT APPROVAL.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate Health Department. The application for such permit shall be made on a form furnished by the City (**reference Appendix #3**) which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **One Hundred Dollars (\$100.00)** shall be paid to the City at the time the application is filed.

38-4-12 **PERMIT APPROVAL.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **forty-eight (48) hours** of the receipt of written notice by the Superintendent.

38-4-13 **COMPLIANCE WITH STATE REQUIREMENTS.** The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **seven thousand five hundred (7,500) square feet**. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

38-4-14 **AVAILABILITY OF PUBLIC WASTEWATER.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-4-7**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

38-4-15 **OPERATION OF PRIVATE SYSTEM.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

38-4-16 **ADDITIONAL RESTRICTIONS.** No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Franklin/Williamson County Health Departments.

38-4-17 **AVAILABILITY OF SEWER.** 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.

38-4-18 - 38-4-20 **RESERVED.**

DIVISION IV - BUILDING WASTEWATER AND CONNECTIONS

38-4-21 **DISTURBING SYSTEM UNLAWFUL.** No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

38-4-22 **COMPLIANCE WITH REGULATING AUTHORITIES.** All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-23 **CLASSES OF PERMITS.** There shall be **two (2)** classes of building sewer permits:

- (A) Residential, commercial, institutional/governmental wastewater service, and
- (B) Industrial wastewater service.

In either case, the owner or his agent shall make application on a special form furnished by the City Clerk. **(See Appendix #2)**

The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of **Two Hundred Dollars (\$200.00)** shall be paid to the City for single family, commercial, institutional/governmental or industrial building to be located inside the corporate limits of the City. A permit and inspection fee of **Six Hundred Dollars (\$600.00)** shall be paid to the City for single family, commercial, institutional/governmental or industrial buildings to be located outside the corporate limits of the City. In the event a particular building or premises shall contain more than **one (1) dwelling**, commercial, or industrial unit, there shall be an additional permit and inspection fee of **Two Hundred Dollars (\$200.00)** paid to the City for each additional unit to be served. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics and type of activity. **(Ord. No. 41-01; 10-22-01)**

(C) When the City is installing a new sewer line, **Three Hundred Dollars (\$300.00)** shall be paid to the City for the installation of a sewer tap on a vacant lot inside the corporate limits, for use in the future. **(Ord. No. 38-2003; 07-28-03)**

38-4-24 **COST BORNE BY OWNER.** All costs and expenses including labor and material incidental to the installation, connection and maintenance of a lateral sewer line shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly

be occasioned by the installation, connection and maintenance of the lateral sewer lines. This section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

38-4-25 **SEPARATE WASTEWATER: EXCEPTION.** A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; except for sewer connection charges accruing from such buildings or properties.

38-4-26 **OLD BUILDING WASTEWATER.** Old building sewer may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

38-4-27 **CONSTRUCTION METHODS.** The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the building sewer be less than **four (4) inches**. If **six (6) inch diameter pipe** is used, the slope shall not be less than **one-eighth (1/8) inch** per foot. If **four (4) inch or five (5) inch diameter pipe** is used, the slope shall not be less **one-fourth (1/4) inch** per foot. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. Installation shall be in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All building sewer shall be constructed of materials approved by the City. Generally all building sewer shall be constructed of the following materials:

- (A) Ductile iron pipe
- (B) PVC solid wall plastic pipe (6" diameter maximum) SDR-35

All pipe joints must be gastight and watertight and are subject to the approval of the City. Transition joints from one pipe material to another shall be made using fittings manufactured for such transitions.

38-4-28 **PLUMBING CODE REQUIREMENTS.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

38-4-29 **ELEVATION.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with **Section 38-4-22** and discharged to the building sewer.

38-4-30 **PROHIBITED CONNECTIONS.** No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

38-4-31 **CONNECTIONS TO WASTEWATER MAINS.** Building Sewer connections with any sewer shall be made only at manholes or other such junctions as may be provided or designated by the City, and then only in such manner as directed. The connection of the building sewer shall be made at a wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

(A) Installation of a manhole

(B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter. The entire sewer main in the location of the wye and the wye shall be encased in concrete.

(C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of **one-half (1/2) inch** gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

If another method is desired, a detail shall be submitted for review and approval by the City before the connection is made. Indiscriminate breaking of the sewer main pipe is not allowed.

On Site Inspection. After the wye branch has been inserted and jointed, and before any additional fittings have been placed in the service line, the installation shall be approved by the Superintendent, or his authorized representative. After approval is granted the contractor shall encase the work area as specified herein.

Backfill. To be placed in accordance with The Standard Specifications for Water and Sewer Main Construction in Illinois, Current Edition. In addition, any building sewer crossing any street, or traveled alley shall be backfilled with CA-86 backfill material.

Concrete Encasement. When a riser is constructed and its height is **four (4) feet** or more measured from the flowline of the sewer main to the top of the riser pipe, the wye connection shall be encased in concrete to a height of at least **one foot six inches (1' 6")** above the flowline of the sewer main. When the height of the riser is less than **four (4) feet** above the flowline of the sewer main, the wye connection shall be backfilled to the top of the riser pipe with carefully placed and compacted granular backfill.

38-4-32 **CAPACITY OF WASTEWATER.** A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewer facilities, including sewer, pump stations and sewer treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-4-33 **TAP-IN SUPERVISION AND TESTING.** The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

At any time after the installation of the building sewer, the City may test the building sewer for violation of this Code.

38-4-34 **INSPECTION.** After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet City 's requirements.

38-4-35 **PUBLIC WASTEWATER CONNECTION.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois**. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

38-4-36 **PROTECTION OF PROPERTY.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

38-4-37 **BOND REQUIRED.** If the applicant for the building sewer permit does not have a general bond on file with the City, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-4-38 **UNLAWFUL DISCHARGES.** All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-39 - 38-4-41 **RESERVED.**

DIVISION V - EXTENSION OF COLLECTING WASTEWATERS

38-4-42 **PERMIT REQUIRED; AUTHORIZED PERSONNEL.** No person, other than an authorized employee of the City, shall make any connection with, uncover, alter or disturb a City sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the City, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any City sewer, without first obtaining a written permit to do so from the City. **(See Appendix #2)**

38-4-43 **EXTENSION PERMITS.** Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the City.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the City and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this ordinance and all state and federal requirements, the City shall issue the permit for

construction of the sewer. If otherwise, the application for permit shall be denied by the City. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the City, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the City for further consideration.

All permits issued under this Article V shall have an expiration date of **two (2) years** after the date of issuance. Any sewer not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-4-44 MATERIALS. All sewer extensions shall be constructed of the following materials:

(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

- (1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.
- (2) PVC sewer pipe SDR-35 conforming to ASTM 03033 or D3034 with joints conforming to ASTM D3212.

(B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and

- (1) of comparable material to the sewer main for VCP and PVC pipe.
- (2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

38-4-45 INSPECTIONS OF CONSTRUCTION. Construction of the sewer shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the City before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewer shall be subjected to:

(A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.

(B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;

(C) Under special circumstances, when approved by the City, air pressure testing with allowance to be specified by the City.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the City's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the City. **(See Appendix #5)**

38-4-46 MANHOLES REQUIRED. Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **four hundred (400) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers.

38-4-47 - 38-4-48 RESERVED.

DIVISION VI - USE OF PUBLIC WASTEWATER FACILITIES

38-4-49 **DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-4-50 **STORM WATER.** Stormwater and all other unpolluted drainage shall be discharged to such sewer as are specifically designated as storm sewer, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the City, to a storm sewer, or natural outlet.

38-4-51 **REGULATIONS OF WASTES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(A) Any gasoline, benzene, 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 sewer, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-4-52 **HARMFUL EFFECTS OF CERTAIN MATERIALS.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewer, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewer, materials of construction of the sewer, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than **One Hundred Fifty degrees Fahrenheit (150°F), (65°C).**

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of **One Hundred (100) mg/l** or containing substances which may solidify or become viscous at temperatures between **Thirty-Two (32) and One Hundred Fifty degrees Fahrenheit (150°F), (0 and 65°C).**

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of **three-fourths (3/4) horsepower (0.76 hp metric)** or greater shall be subject to the review and approval of the City.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree

that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.

(F) Any waters or wastes containing phenols or other waste odor-producing substances, in such concentration exceeding limits which may be established by the City as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.

(H) Any mercury or any of its compounds in excess of **0.0005 mg/l as Hg** at any time except as permitted by the City in compliance with applicable State and Federal regulations.

(I) Materials which exert or cause:

- (1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
- (4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein. **(See Appendix #7)**

(J) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

(K) Any waters or wastes having a pH in excess of 9.5.

(L) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the City in compliance with applicable State and Federal regulations.

38-4-53 HARMFUL WASTES; APPROVAL.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewer, which waters contain the substances or possess the characteristics enumerated in **Section 38-4-52** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge; and/or;
- (3) require control over the quantities and rates for discharge; and/or;
- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-4-42**.

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, articles, and laws.

(C) The owner of the pretreatment or equalization facilities shall obtain construction and operating permits from the Illinois Environmental Protection Agency prior to the issuance of final approval by the Superintendent.

(D) Where multiple process or discharges are present or contemplated at an industry, the City shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all sewer be discharged through a single control manhole or structure with appurtenances described herein.

38-4-54 INTERCEPTORS PROVIDED.

(A) Grease, oil, and sand interceptors shall be provided in accordance with the Illinois State Plumbing Code to assure the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. All grease interceptors shall be serviced and emptied of accumulated waste content as required or at a minimum of once every **four (4) months** in order to maintain minimum design capability or effective volume of the grease interceptor and to prevent carry over of grease into the sanitary sewer system. All fast food and sit-down restaurants shall install a grease interceptor with a capacity of at least **one thousand five hundred (1,500) gallons**, and designed in accordance with **Appendix "A"**. Food establishments that serve a minimum amount of fried foods such as deli sandwich shops, shall install a grease interceptor with a capacity of at least **one thousand (1,000) gallons**, and designed in accordance with **Appendix "B"**.

(B) Users whose operations cause or allow excessive grease to discharge or accumulate in the City wastewater collection and treatment system may be liable to the City for costs related to service calls for sewer line blockages, line cleaning, line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service related charges may also be grounds for sewer service discontinuance.

(C) **Maintenance Log.** A grease trap cleaning/maintenance log indicating each pumping for the previous **twenty-four (24) months** shall be maintained by each Food Service Facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the City or his representative upon request.

(D) **Submittal of Records.** Each user shall submit all cleaning and maintenance records to the City. The maintenance records shall include the following information:

- (1) Facility name, address, contact person, and phone number.
- (2) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap.
- (3) Types of maintenance performed.
- (4) Dates maintenance was performed.
- (5) Date of next scheduled maintenance.
- (6) Copies of manifests.
- (7) The user shall be required to submit maintenance records to the City on an annual basis. Records shall be submitted by **September 1st** of each year. The records shall be submitted to:
Attn: Wastewater Superintendent

(E) The City will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the City, the user shall be required to perform the maintenance and records of said maintenance within **fourteen (14) calendar days**. Upon inspection by the City the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

(F) **Control Plan for Fats, Oils, Greases (FOG) and Food Waste.**

- (1) Any new construction, renovation, or expansion of Food Service Facilities shall be required to submit to the City a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.

- (2) Any existing Food Service facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system. Existing facilities shall not be exempt from the requirements of this Section. There will be no "Grandfathering".

(G) **Exceptions to the Above.** Should existing facilities be hampered by space constraints or restrictions caused by unchangeable plumbing, an alternative interceptor may be approved, provided that:

- (1) Said interceptor and installation is endorsed by a licensed plumbing contractor in regard to its operability.
 (2) Said interceptor and installation is endorsed by the City Engineer.
 (3) Said interceptor and installation is approved by the Superintendent and the Water and Sewer Committee.

Such installations may be subject to more stringent inspections and maintenance schedules.

38-4-55 FLOW-EQUALIZING FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

38-4-56 INDUSTRIAL WASTES CONTROL MANHOLE. Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and 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.

38-4-57 INDUSTRIAL WASTE TESTING.

(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this Code and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City, but no less than once per year the industry must supply a complete analysis of the constituents of the sewer discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the City at such times and in such a manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary the City reserves the right to take measurements and samples for analysis by an outside laboratory service.

38-4-58 MEASUREMENTS AND TESTS. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite

of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

38-4-59 **SPECIAL ARRANGEMENTS.** No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System.

38-4-60 **PROTECTION FROM DAMAGE.** No authorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-4-61 - 38-4-64 **RESERVED.**

DIVISION VII - INSPECTIONS

38-4-65 **DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-4-66 **INSPECTION AND TESTING.**
 (A) The Superintendent and other duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.

(B) The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewer or waterway or facilities for waste treatment. **(See Appendix #5)**

38-4-67 **LIABILITY OF CITY.** While performing the necessary work on private properties referred to in **Section 38-4-66** above, the Superintendent or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-4-57.**

38-4-68 **PRIVATE PROPERTY INSPECTIONS.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but

not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-4-69 - 38-4-70

RESERVED.

DIVISION VIII – WASTEWATER SERVICE CHARGES

38-4-71 BASIS FOR WASTEWATER SERVICE CHARGES. The wastewater service charge for the use of and for service supplied by the wastewater facilities of the City shall consist of a basic user charge for operation and maintenance plus replacement, applicable surcharges and local capital cost charge composed of a debt service charge and a capital improvement charge.

The debt service charge is computed by dividing the annual debt service of all outstanding bonds by the number of users. Through further divisions, the monthly debt service charges can be computed.

The capital improvement sewer charge is levied on all users to provide for capital improvements, sewer extensions or reconstruction of the sewage treatment works. The capital improvement is computed by apportioning the annual amount to be accrued as a fixed charge per month.

The basic user charge shall be based on water usage as recorded by water meters for wastes having the following normal domestic concentrations:

- ◆ A five day, **20 degree centigrade (20 degree C)** biochemical oxygen demand (BOD) of **204 mg/l.**
- ◆ A suspended solids (SS) content of **240 mg/l.**

It shall consist of operation and maintenance costs plus replacement and shall be computed as follows:

- (A) Estimate 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 OM&R costs to each user class by volume, suspended solids and BOD.
- (D) Proportion the estimated operation, maintenance and replacement (OM&R) costs to wastewater facility categories by Volume, Suspended Solids and BOD.
- (E) Compute costs per **one thousand (1,000) gallons** for normal sewage strength.
- (F) Compute surcharge costs per pound per **one thousand (1,000) gallons** in excess of normal sewage strength for BOD and SS.

A surcharge will be levied to all users whose wastewaters exceed 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 for all wastes which exceed the **300 mg/l** and **350 mg/l** concentration for BOD and SS respectively. **Section 38-4-25** specifies the procedure to compute a surcharge.

The adequacy of the wastewater service charge shall be reviewed as soon as possible following receipt of the annual audit of the Sewer Department, and in no event, later than two (2) months after receipt of the audit. The review, appraisal, and examination of the wastewater service charges shall be made by the Public Works Committee, the Superintendent, City Treasurer, City Clerk, City Auditor and City Engineer for the purpose to determine where a change should be made. The items to be reviewed are the local capital cost, operation and maintenance cost, and replacement cost. A written report of the results of the study shall be submitted to the City Council by the Public Works Committee, together with its recommendation.

The users of wastewater treatment services will be notified annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to the wastewater treatment operation, maintenance and replacement. **(Ord. No. 32-97; 07-14-97)**

38-4-72 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 hundred (100) 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 City for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the 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, and maintained by the person and owned by the City. Following approval and installation, such meters may not be removed, unless service is cancelled, without the consent of the Superintendent.

(D) All multi-unit buildings, residents, businesses or both constructed after the date of this Chapter shall have a water meter installed for each building.

(E) A building unit is defined as 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 and such homes or apartments or dwellings shall be billed for at least **one (1) minimum 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.

38-4-73 DEBT SERVICE CHARGE. A debt service charge of **Seven Dollars Fifty-Seven Cents (\$7.57)** per user per month, to each user of wastewater facility of the City is hereby established. A capital improvement charge will be levied on all users as a fixed charge of **One Dollar Twenty Cents (\$1.20)** per month to provide funds for extension, improvements, or reconstruction of the sewage treatment works. **(Ord. No. 13-2023; 04-24-23)**

38-4-74 BASIC SEWER RATE. There shall be and there is hereby established a minimum charge and a basic user rate for the use of and for service supplied by the Wastewater Facilities of the City. A minimum charge of **Seventeen Dollars Twenty-Seven Cents (\$17.27)** per month shall be applied to all users who are located inside the corporate limits of the City whose water consumption does not exceed **two thousand (2,000) gallons** per month, and a minimum charge of **Eighteen Dollars Fifty-Two Cents (\$18.52)** per month shall be applied to all users who are located outside the corporate limits of the City whose consumption does not exceed **two thousand (2,000) gallons** per month. A basic user rate of **Three Dollars Eighty-Five Cents (\$3.85)** per **one thousand (1,000) gallons** shall be applied to all users for water consumption in excess of **two thousand (2,000) gallons** per month. The aforementioned minimum charges shall be effective starting the **May 2023** billing cycle.

All non-metered residential users of the wastewater facilities shall pay a minimum flat rate charge per month adequate to cover the costs of the minimum accrual capital cost charge, the minimum service charge and the basic user rate of **Seventeen Dollars Ninety-Seven Cents (\$17.97)** per month for users located inside the corporate limits of the City and **Twenty Dollars Seventy-Seven Cents (\$20.77)** per month for users located outside the corporate limits of the City; these minimum flat rate charges shall be effective starting the **May 2023** billing cycle. The flat rate charge will allow a maximum usage of **five thousand (5,000) gallons** per month. In the event use of the wastewater facilities is determined by the Superintendent to be in excess of **five thousand (5,000) gallons** per month, the Superintendent may require such flat rate user to install metering devices on the water supply to measure the amount of service supplied.

(Ord. No. 13-2023; 04-24-23)

38-4-75 SURCHARGE RATE. The rates of surcharges for BOD₅ and SS shall be as follows:

per lb. of BOD/1,000 gallons	\$0.20
per lb. of SS/1,000 gallons	\$0.19

(Ord. No. 32-97; 07-14-97)

38-4-76 COMPUTATION OF SURCHARGE. 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.

38-4-77 COMPUTATION OF WASTEWATER SERVICE CHARGE. The wastewater service charge shall be computed by the following formula:

$$CW = CC + CD + CM + (Vu-X) CU + CS$$

- Where
- CW = Amount of waste service charges (\$) per billing period.
 - CD = Debt Service Charge **(Section 38-4-22)**
 - CC = Capital Improvement Charge.
 - CM = Minimum Charge for Operation, Maintenance and Replacement **(Section 38-4-23)**
 - Vu = Wastewater Volume for the billing period.
 - X = Allowable consumption in gallons for the minimum charge **(Section 38-4-23)**
 - CU = Basic User Rate for Operation, Maintenance and Replacement **(Section 38-4-23)**
 - CS = Amount of Surcharge **(Sections 38-4-24 and 38-4-25)**

(Ord. No. 26-97; 06-09-97)

38-4-78 INDUSTRIAL SEWER USAGE CHARGE SYSTEM. When hydraulic loading ratio and/or organic loading ratio [expressed in terms of Biochemical Oxygen Demand (BOD) or Suspended Solids (SS), whichever is greater] from a commercial or industrial establishment equals or exceeds **five percent (5%)** of the total wastewater treatment plant loading, then the business establishment shall pay an Industrial Cost Recovery Charge which will be determined by the following formula:

(A) $C_I = \frac{THL + TOL}{2} \times (AGA)$

(B) C_I = Annual Industrial Cost Recovery Charge

(C) THL = The ratio [expressed as a decimal fraction] of the hydraulic loading contributed by the establishment to the total hydraulic loading on the Wastewater Treatment Plan.

(D) TOL = The ratio [expressed as a decimal fraction] of the organic loading contributed by the establishment to the total organic loading on the Wastewater Treatment Plan.

(E) AGA = The grant amount awarded to the City by the Federal Environmental Agency divided by the useful life of the treatment works.

This Industrial Cost Recovery Charge shall be assessed annually to the industry. The first payment will be due **one (1) year** after connection to the sanitary sewer system.

The City shall return **fifty percent (50%)** of the above Industrial Cost Recovery Charge to the United States Treasury on an annual basis while retaining the remaining **fifty percent (50%)**. This retained charge shall be set aside in a separate account. **Eighty percent (80%)** of the retained amounts must be used in expansion or reconstruction of the sanitary sewer treatment facilities with written approval of the Regional Administrator of the United States Environmental Protection Agency. The remaining **twenty percent (20%)** of the retained amount may be used as the City sees fit.

In addition to the Industrial Cost Recovery Charge, the establishment as defined above shall pay a sewer charge as determined by the following formula:

(F)
$$C_o = \frac{THL + TOL}{2} \times (AOM)$$

(G) C_o = Annual sewer usage charge based on Operation and Maintenance Costs.

(H) AOM = The annual operation and maintenance cost to the City incurred for, and related to the operation of the wastewater treatment plant, based on the actual cost for the previous year. This annual cost shall include the yearly depreciation amount as well as the standard Operation and Maintenance and debt service costs as established in the Sewer Use Ordinance Accounting System.

The contributor shall, upon the request of the Superintendent, provide a satisfactory opening in the lateral before the sewage reaches the sewer main where a representative sample of the sewage can be taken and where the flow can be measured by the Superintendent.

The loading contributed by an establishment shall be determined from the numerical average of BOD or SS [whichever is higher], and from recorded flows based on actual flow measurement or water use records, over the preceding **six (6) month** period, if such records are available. Otherwise, the loading shall be determined based on the best available information.

The Superintendent shall take representative samples of sewage on a minimum frequency of once a month, and run the BOD and/or SS test according to standard methods, which shall be used to calculate the Industrial Cost Recovery Charge and the annual sewer usage charge.

38-4-79 - 38-4-90 RESERVED.

DIVISION IX - PENALTIES

38-4-91 PENALTY. Any person found to be violating any provision of this Code except **Section 38-4-65** shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The City may revoke any permit for sewage disposal as a result of any violation of any provision of this ordinance.

38-4-92 CONTINUED VIOLATIONS. Any person who shall continue any violation beyond the time limit provided for in **Section 38-4-91** shall be, upon conviction, be fined in the amount not exceeding **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

38-4-93 LIABILITY TO CITY. Any person violating any of the provisions of this Chapter shall become liable to the City by reason of such violation.

APPENDIX #1

CITY OF HERRIN

APPLICATION FOR WATER SYSTEM SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for connection to the Water System of the City for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or enacted and passed from time to time providing for the regulation of service furnished by the City, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:

SIGNATURE: _____

(STREET NUMBER AND NAME OF STREET)

(CITY, STATE AND ZIP CODE)

(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

(

(NAME)

(

(STREET NUMBER AND NAME OF STREET)

(

(CITY, STATE AND ZIP CODE)

APPENDIX #2

CITY OF HERRIN

UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____,
by and between the Utility System of the **City of Herrin, 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 HERRIN**

**BY: _____
PUBLIC WORKS DIRECTOR**

ATTEST:

CITY CLERK

DEPOSITOR

WITNESSES:

APPENDIX #3

CITY OF HERRIN

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 HERRIN

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:

<u>NUMBER</u>	<u>FIXTURE</u>	<u>NUMBER</u>	<u>FIXTURE</u>
_____	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 HERRIN

INDUSTRIAL SEWER CONNECTION APPLICATION

The undersigned, being the _____ of the
_____ (owner, owner's agent)
property located at _____ does hereby request a permit to _____
_____ (Number) _____ (Street) _____ (install, use)
an industrial sewer connection serving the _____. which company is engaged in
_____ at said location.

1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A"**.
2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B"**.
3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C"**.
4. The name and address of the person or firm who will perform the work covered by this permit is _____

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the City.
2. To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances or codes that may be adopted in the future.
3. To operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the City.
4. To cooperate at all times with the City and its representative(s) in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
5. To notify the City immediately in the event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

DATE: _____, 20____ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 20____
\$ _____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4

CITY OF HERRIN

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 HERRIN

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 HERRIN
COUNTY OF WILLIAMSON**

DATE: _____

ADDRESS: _____

OWNER(S): _____

APPENDIX #5

CITY OF HERRIN

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 HERRIN
COUNTY OF WILLIAMSON**

SIGNED: _____

APPENDIX #6

CITY OF HERRIN

UTILITY SHUTOFF HEARING NOTICE

This notice is being sent to you pursuant to the provisions of **CHAPTER 38 OF THE REVISED CODE OF ORDINANCES** as adopted by the corporate authorities.

CUSTOMER'S NAME: _____

ADDRESS: _____

TOTAL AMOUNT OF BILL: \$ _____ WATER

 \$ _____ SEWER

 \$ _____ OTHER

SUB-TOTAL: \$ _____

PENALTY: \$ _____

TOTAL DUE: \$ _____

DATE OF HEARING _____

TIME OF HEARING _____

LOCATION OF HEARING _____

PHONE: _____

If the consumer/customer fails to appear at the hearing, the applicable utility services shall be **terminated** [shut off] without further proceedings.

If payment for the charges and fees is received prior to the date of the hearing, you may disregard this hearing notice.

The Mayor and City Clerk, or their designated representative(s), shall preside at the hearing.

CITY CLERK

DATED THIS _____ DAY OF _____, 20_____.

NOTE: After services have been shut off there will be a reconnection fee of \$ _____.

APPENDIX #7

CITY OF HERRIN

OBJECTIONABLE MATERIAL EFFLUENT LIMITS

<u>Waste or Chemical</u>	<u>Concentration mg/l</u>
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

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CHAPTER 40

ZONING

ARTICLE I – PURPOSE, INTERPRETATION AND DEFINITIONS

40-1-1 **PURPOSE.** The provisions and requirements of this Chapter are adopted for the following purposes:

- (A) To promote and protect the public health, safety, comfort, and general welfare of the citizens of the City of Herrin;
- (B) To serve as an implementing tool of comprehensive planning;
- (C) To establish reasonable standards to which buildings and structures shall conform;
- (D) To encourage development and arrangement of land uses and structures that will yield the greatest social and economic benefits for the City;
- (E) To provide adequate light, air, privacy and convenience of access to property; and
- (F) To divide the City into zoning districts restricting and regulating the location, erection, construction, reconstruction, alteration, and use of buildings, structures, and land for residential, business, manufacturing and other specified land uses.

The provisions and requirements of this Chapter shall be considered minimum requirements.

Exception. The express or implicit language of this Chapter shall not apply to the land and territory of the Williamson County Airport Authority. No general or specific zoning classification of any nature which is or may be imposed under this Chapter shall apply to or affect, in any manner, the land and territory contained within the Williamson County Airport Authority.

40-1-2 **RULES OF INTERPRETATION.** For the purpose of this Chapter, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word "shall" is mandatory, and the word "may" is permissive. The particular shall control the general and in the event of conflict between the caption or illustration and the text, the text shall control.

40-1-3 **COMPLIANCE WITH REGULATIONS.**

(A) **Use of Buildings and Land.** No building, structure, or premises shall be used or occupied, and no buildings or parts thereof, or structure shall be erected, moved, placed, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the zoning district in which the land is located and as otherwise regulated. Any change in the use of any building, structure or premises shall be in conformity with the regulations specified in this Chapter and all applicable provisions of the Herrin City Code.

(B) **Bulk of Buildings.** No building, structure or premises shall be erected, altered or used so as to produce greater heights, smaller yards or less unoccupied area, and no building shall be occupied by more families and/or more persons than prescribed for such building, structure or premises for the district in which it is located and as otherwise regulated herein.

(C) **Open Spaces.** No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling.

(D) **Relationship to Existing Ordinances and Permits.**

- (1) Where this Chapter imposes a greater restriction upon land, buildings, or structures than is imposed or required by existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall govern.
- (2) This Chapter is not intended to abrogate or annul any building permits, certificates of occupancy, variances or other lawful permits issued before the effective date of this Chapter, except as otherwise specifically provided herein.
- (3) This Chapter shall supercede such other ordinances or parts of other ordinances of the City in conflict with the provisions of this Chapter,

provided that nothing herein shall in any way excuse or prevent prosecution of any previous or existing violation of any ordinance superseded hereby.

- (4) Any building or structure for which a building permit has been issued prior to the date of enactment of this Chapter may be completed and used in accord with the plans, specifications, and permits on which the building permit was granted, provided construction commences within **one hundred eighty (180) days** of approval of this Chapter and is diligently prosecuted to completion.
- (5) If any part or provision of this Chapter, or the application thereof to any person, property, or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation and direction to the part, provision, section or application directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the integrity or validity of the remainder of this Chapter or the application thereof to other persons, property or circumstances. The City Council hereby declares that it would have enacted the remainder of this Chapter without such part, provision, section or application.

40-1-4 DEFINITIONS.

Accessory Structure: A structure, not expressly prohibited, the use of which is incidental to the principal structure and which is located on the same lot as the principal structure.

Accessory Use: A use, not expressly prohibited, customarily incidental to the principal use and so necessary or commonly to be expected that it cannot be reasonably assumed to be prohibited.

Adult Day Care Center: Day care centers which provide care for less than **twenty-four (24) hours** per day to more than **three (3) adults** who are not residents of the facility and which provide services and programs designed to meet the individual needs of the persons served.

Adult Entertainment: Any establishment where, for any form of consideration, where books, magazines, or other printed matter, or photographs, films, video cassettes/discs, or other visual representation, or where live entertainment is provided that is characterized by an emphasis upon the depiction, description or display of specific sexual activities or specified anatomical areas.

Adult-Use Cannabis Business Establishment: An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization. **(Ord. No. 30-2020; 08-24-20)**

Adult-Use Cannabis Craft Grower: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 30-2020; 08-24-20)**

Adult-Use Cannabis Cultivation Center: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 30-2020; 08-24-20)**

Adult-Use Cannabis Dispensing Organization: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 30-2020; 08-24-20)**

Adult-Use Cannabis Infuser Organization or Infuser: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 30-2020; 08-24-20)**

Adult-Use Cannabis Processing Organization or Processor: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 30-2020; 08-24-20)**

Adult-Use Cannabis Transporting Organization or Transporter: An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 30-2020; 08-24-20)**

Alley: Any public or private way **twenty (20) feet** or less in width which is set aside as a permanent right-of-way for public vehicular travel and which serves as a secondary means of access to abutting property.

Alteration: A change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by an addition on a side, or by an increase 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.

Automobile Repair: Engine rebuilding, major reconditioning of worn or damaged motor vehicles or trailers, including body, frame, or fender repair, and painting of vehicles.

Automobile Sales Lot: Any place outside a building where **two (2)** or more vehicles in operating condition are offered for sale or are displayed for sale or advertising purposes.

Automobile Wrecking Yard: Any place where **two (2)** or more motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof, and including the commercial salvaging of any other goods, articles or merchandise.

Basement: The portion of a building partially underground, but having less than **one-half (1/2)** its floor to ceiling height below grade.

Bed and Breakfast: An operator occupied residence providing accommodations for a charge to the public with no more than **five (5)** guest rooms for rent. Bed and breakfast establishments shall not include motels, hotels, boarding or rooming houses, or food service establishments.

Billboard: A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

Board of Appeals: The Zoning Board of Appeals of the City of Herrin, Illinois.

Boarding/Rooming House: A building or premise where living quarters are provided for compensation, and is occupied by **two (2)** or more persons who are not members of the family.

Building: A roofed structure enclosed within exterior walls, which may contain a breezeway or carport, built and framed for component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

Building, Front Line: The line of that face of the building nearest the front line of the lot. This includes sun parlors, and covered porches, whether enclosed or open, but does not include steps.

Building Height: The vertical distance measured from the grade elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridges for gable, hip, and gambrel roofs.

Building Lines: 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. For purposes of establishing minimum yards, projections from a building or structure which are not designed for occupancy either above, below or within the projection shall not be considered part of the building or structure. No structural supports of the projections may originate in any required minimum yard.

Cellar: That portion of a building partially underground, but having **one-half (1/2)** or more of its floor to ceiling height below grade.

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 of care, and which provide essential personal care, protection, supervision, training and programs to meet the needs of children served.

Commencement of Construction: The phrase shall mean the same as actual start as defined in the start of construction.

Community Residence: A residential living arrangement for more than **three (3)** unrelated individuals with disabilities in need of the mutual support furnished by other residents of the community residence as well as the support services, if any, provided by the staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff which provides habilitative or rehabilitative services related to the disabilities of the residents. A community residence seeks to achieve normalization and community integration of its residents. Its primary purpose is to provide shelter in a family-like environment. Treatment is incidental as in any home. Inter-relationships between residents are an essential component. A community residence shall be considered a residential use of property for purposes of all zoning and building codes. The term "community residence" includes the following two categories: **(Ord. No. 21-2013; 07-22-13)**

Family Community Residence: A relatively permanent living arrangement for more than **three (3)** unrelated persons with disabilities with no limit on how long a resident may live in the home. The length of tenancy is expected to be more than **one (1) year**.

Transitional Community Residence: A temporary living arrangement for more than **three (3)** unrelated persons with disabilities which limits residence in the home to **one (1) year** or less.

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 a particular residential unit but also extends to offices and other types of space in commercial buildings.

Convenience Store: A retail establishment which primarily sells food, beverages, and gasoline and convenience items.

Corporate Authorities: The City Council of the City of Herrin, Illinois.

Disability: A physical or mental impairment that substantially limits one or more of an individual's major life activities, impairs an individual's ability to live independently, having a record of such an impairment, or being regarded as having such an impairment. People with disabilities do not include drug addicts or alcoholics when they are using alcohol, illegal drugs, or using legal drugs to which they are addicted. **(Ord. No. 21-2013; 07-22-13)**

District: A specific section of the City for which uniform regulations governing the use, height, area, and intensity of use by buildings and land, and open spaces about buildings are established.

Drive-In/Drive-Through Restaurants: Any establishment serving food or beverages to customers who remain in or leave and return to their cars for consumption of such food or beverages. Drive-in restaurants include self service restaurants for take out food.

Driveway: For one, two, three and four unit dwellings, an off-street area, paved with bituminous concrete, or the equivalent thereof, provided for use by motor vehicles in gaining access to public streets or as a parking area.

Duplex: A two unit dwelling.

Dwelling Unit: One room or more than one connected rooms, designed as a separate independent living unit and containing cooking, bathroom and sleeping facilities.

Employees: With respect to off-street parking requirements, employees mean all who work in the enterprise including the owners, partners, management and office personnel.

Family: A single individual living upon the premises as a single housekeeping unit; or a collective body of persons living together upon the premises as a single housekeeping unit in a domestic relationship based upon birth, marriage, or adoption; or a group of not more than **three (3)** unrelated persons living together on the premises as a single housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity or residence hotel). **(Ord. No. 21-2013; 07-22-13)**

Floor Area: The sum of all gross, horizontal enclosed area of the several floors of a building and its accessory buildings on the same lot excluding cellar floor areas and non-enclosed portions of the substructure. All dimensions shall be measured between exterior faces of walls.

Floor Area Ratio (F.A.R.): The quotient of the floor area of the building divided by its lot area.

Four Unit Dwelling: A building containing **four (4)** dwelling units.

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. 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, a front yard shall be provided on all frontages.

In the case of a corner lot, a front yard of the required depth shall be provided on either front yard, but where possible in accord with the prevailing yard pattern, and second front yard of **one-half (1/2)** the depth required generally for front yards for the district shall be required on the other frontage.

Grade: The average of the finished ground level at the center of all walls of a building.

Home Occupation: An occupation conducted in **one (1)** or more dwelling units or **one (1)** or more accessory buildings, or partly in the dwelling and partly in an accessory building, provided that:

- (A) No persons other than members of the family residing on the premises in question shall be engaged in the occupation;
- (B) The total horizontal area, including but not limited to basement areas and cellar areas, used for a home occupation does not exceed **twenty-five percent (25%)** of the entire, aggregate horizontal floor area, including basement and cellar areas, and all accessory buildings located on the premises in question;
- (C) There is no change in the outside appearance of any buildings or of the premises or other visible evidence of the conduct of such home occupation other than any sign permitted in this Chapter;
- (D) No sales shall be permitted, other than the sale of goods produced or repaired in connection with such occupation and occasional sales of products normally sold by other businesses similar to the home occupation on the premises in question;
- (E) Any need for parking space created because of the conduct of such home occupation shall be met by providing off-street parking space;
- (F) No noise, vibration, glare, fumes, odor, smoke or electrical interference of any kind that is either noxious or unreasonably disturbing to others not engaged in such home occupation is caused by or results from such home occupation;
- (G) Notwithstanding anything to the contrary herein, home occupation shall not be construed to include the occupations of chiropractic treatment, dentistry, law, medicine, optometry, and real estate sales and rentals.

Kennel: Any lot, structure or premises where **three (3)** or more dogs over **four (4) months** of age or **three (3)** or more cats over **four (4) months** of age are kept.

Junk Yards: An open area where scrap metal or similar materials are bought, sold, exchanged, sorted, baled, packed, disassembled, or handled, including auto and building salvage yards. **(See Automobile Wrecking Yard)**

Laundries:

- (A) **Laundromat.** A business that provides washing, drying and ironing machines for hire to be used by customers on the premises.
- (B) **Commercial Industrial Laundry.** A business that provides washing, drying and ironing services operated by the employees on the premises.

Lot: A parcel of land of at least sufficient size to meet minimum applicable zoning requirements for use, coverage, and area, and to provide required yards and other required open spaces, and having frontage on an improved street, and may consist of a single lot or lots of record, 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 applicable requirements of this Chapter.

Lot Measurement:

- (A) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the front and 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 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 a cul-de-sac, where the **eighty percent (80%)** requirement shall not apply.

Lot Types: Any lot, not otherwise defined, shall be considered to be one of the following types:

(A) **Corner Lot.** A lot located at the intersection of **two (2)** or more streets. A lot located 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.** A lot other than a corner with only frontage on a street.

(C) **Through Lot or Double Lot.** A lot other than a corner lot with frontage on more than **one (1) street**.

Mobile/Manufactured Home Lot: A site situated in a mobile or manufactured home park and designated for the exclusive use of the occupants of a manufactured home.

Mobile/Manufactured Home: A mobile home is a manufactured home and is a structure, transportable in **one (1)** or more sections, which is **twelve hundred (1200)** or more square feet when erected on site and which is built on a chassis and designed to be used as a dwelling unit with a permanent perimeter foundation, extending below the frost line, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems. Mobile/manufactured homes shall have a minimum 3/12 pitch roof, with residential style siding and roofing, with a minimum living area of not less than **twelve hundred (1200) square feet**. All mobile/modular homes shall meet all building codes adopted by the City.

(A) Units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity.

(B) Units composed of **two (2)** or more separately towable components designed to be joined into **one (1)** integral unit capable of being separated again into the components for repeated towing.

(C) Units commonly called "tip-outs" and/or "pull-outs" which are specifically designed and manufactured to be assembled with that particular manufactured home.

In addition, the term "manufactured home" also includes panelized, sectional or modular units known as manufactured housing units, which are regulated by the Illinois Department of Public Health. These units are defined as "a building assembly or system of building subassemblies, designed for habitation as a dwelling for **one (1)** or more persons, including the necessary electrical, plumbing, heating, ventilating, and other service systems, which is of closed or upon construction and which is made or assembled by a manufacturer on or off the building site, for installation on the building site, with permanent foundation.

Modular Home: A factory fabricated single family home built in one or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments), of modular home shall not exceed a ratio of three to one. All modular homes must be placed on a full perimeter permanent foundation, extending below the frost depth. All wheels and towing devices must be removed. As with all residences, a modular home must have a minimum 3/12 pitch roof with a residential style siding and roofing, **six (6) inches** minimum eave overhang, and must have a minimum living area of not less than **twelve hundred (1,200) square feet**. Modular homes must meet either the National Manufactured Home Construction and Safety Standards (HUD Code) or the building code adopted by the City.

Mini-Warehouse: A building or group of buildings that contain separate, individual controlled access compartments, stalls, lockers, which may be of various sizes for the storage of customer's goods or wares. A mini-warehouse does not include the conduct of business activities, other than rental of the storage units themselves by the management. Mini-warehouses do not include any storage and transfer business where the use of large vehicles on a frequent basis is part of the business.

Multiple Unit Dwelling: A building with **two (2)** or more dwelling units.

Nonconforming Building: A lawfully existing building which fails to comply with all applicable zoning requirements.

Nursing Home: A building or portion thereof for the aged and infirm, 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, and licensed by the Illinois Department of Public Health.

Off-Street Loading Space: Adequate space, paved with asphaltic concrete, concrete, or the equivalent thereof, situated so as to be accessible at all times to pickup and delivery vehicles and reasonably expected to be used.

Off-Street Parking Space: An off-street space provided for parking of motor vehicles. The parking space shall have an area not less than **nine (9)** by **thirteen (13)** in size.

Parking Structure: Any partially or wholly roofed or partially or wholly enclosed structure containing more than **four (4) spaces** used to park or store motor vehicles, including but not limited to enclosed, basement, underground and multi-tier open parking structures except any structure designed and used as an accessory structure to a single or two unit dwelling containing **four (4) spaces** or less.

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, and all industries and occupations listed under professional and related services and professional specialty occupations. This definition also includes all industries listed under the following specific categories:

- (A) finance, insurance and real estate;
- (B) security, commodity brokerage and investment companies;
- (C) business management and consulting services;
- (D) computer and data processing services;
- (E) executive, managerial and administrative occupations;
- (F) legislators, business and promotional agents.

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 **ten (10) feet** in length within the lot, parallel with 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, posts, steps, terraces, walks, walls, and other customary yard accessories, ornaments and furniture not exceeding applicable height and vision obstruction limitations of this Chapter. The depth of a rear yard is the least distance between the rear lot line and the building line.

Riding Stable: Any place at which horses, ponies, and other equines are kept for hire or for boarding.

Service Station: Building and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. Unless permitted in a particular zoning district, uses permissible at a service station do not include major mechanical work, body repair, welding, storage of automobiles not in operating condition, or other work involving noise, fumes, or smoke. A service station is not a repair garage nor a body shop. Storage of automobiles shall be construed as keeping an automobile on the premises in excess of **seventy-two (72) hours**.

Side Lot Line: Any lot boundary not a front 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, posts, steps, terraces, walks, and other customary yard accessories, ornaments and furniture not exceeding applicable height and vision obstruction limitations of this Chapter. 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.

Single Unit Dwelling: A building containing only one dwelling unit.

Site Coverage: The percentage of a lot that is covered by a structure or structures. Driveways, patios, parking lots, and other such structures are not used to determine site coverage.

Small Animal Hospital: A facility established to supply examination, diagnosis, and other services and medical and surgical treatment to dogs, cats, birds, and the like, and equipped to provide housing and nursing care for them during illness and/or convalescence; providing, however, that such hospital or clinic and any treatment rooms, cages, or pens be maintained within a completely enclosed, soundproof building and that such hospital or clinic be operated in such a manner as to project no objectionable odors outside its walls.

Special Use: That use that is generally appropriate for a community, but may require special regulation because of unique or unusual impacts associated with them. A special use is one that the zoning ordinance permits subject to meeting all standards and conditions imposed.

Structure: An assembly of materials forming a construction for occupancy or use including buildings, reviewing stands, platforms, stagings, observation towers, radio towers, trestles, piers, coal bins, shelters, fences, display lights, signs, mobile homes, canopies, and pump islands.

Three Unit Dwelling: A building containing **three (3)** dwelling units.

Townhouse Development: A group of **two (2)** or more single unit dwellings, all situated in a recorded subdivision with a distinct, described lot for each of such single-unit dwellings, and each of such single-unit dwellings, whether or not a part of a planned development having the following additional characteristics:

- (A) A minimum of **two (2)** separate exterior entrances;
- (B) The same is either attached to adjacent dwellings by party walls extending from the footings to the roof lines, or in the alternative, is situated in such close proximity to adjacent dwellings that there is no visible separation between such dwellings from the footings to the roof lines.

Travel Trailer: A vehicular, portable unit built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes.

Truck/Equipment Terminal: Any lot, structure or premises used for the parking storage of capital equipment such as trucks, trailers, over **three-fourths (3/4) ton** capacity, or other like equipment.

Two Unit Dwelling: A building containing **two (2)** dwelling units.

Variance: The relaxation of the strict terms of this Chapter, that may be granted under the terms of this Chapter.

ARTICLE II – ESTABLISHMENT OF DISTRICTS

40-2-1 ESTABLISHMENT OF ZONING DISTRICTS. For the purpose of this Chapter, the City shall be and is classified and divided into **fourteen (8) districts**, within the corporate limits and within the **one and one-half (1 ½) mile area** outside the corporate limits in each direction. The zoning districts are as follows:

- (A) **Residential Districts.**
 - (1) R-1 One-Family Dwelling District
 - (2) R-2 One-Family Dwelling District
 - (3) R-3 One-Family Dwelling District
 - (4) R-3.1 Two-Unit Dwelling District
 - (5) R-4 Multiple-Family Dwelling District

- (6) MHD Mobile Home District
- (B) **Business District.**
 - (1) B-1 Central Business District
 - (2) B-2 Highway Business District
 - (3) HBD Historic Preservation Business District – Overlay district in B-1
 - (4) NBD Neighborhood Business District
 - (5) PA Professional Office District
- (C) **Planned Unit Development District.**
 - (1) PUD Planned Unit Development District
- (D) **Industrial District.**
 - (1) I-1 General Industrial District
- (E) **Agricultural District.**
 - (1) A-1 Agricultural District
- (F) **Preservation District.**
 - (1) Overlay district for any established zoning district.

40-2-2 ZONING DISTRICT MAP. The boundaries of these districts are as established on the official zoning map and shall be considered districts for the purposes of this Chapter.

40-2-3 ANNEXATIONS.

(A) All territory annexed to the City shall be designated as R-2 (One-Family Dwelling District) unless otherwise classified in the ordinance for annexation, with the exception of territory described in subsection (B) and (C) hereinbelow.

(B) Territory annexed into the City on the east and west sides of Route 148, beginning at Brewster Drive south to Illinois Route 13 shall have a **two thousand (2,000) foot** setback from the right-of-way which shall be zoned as B-2 (Highway Business District), unless otherwise classified in the ordinance for annexation.

(C) Territory annexed into the City on the north and south sides of Illinois Route 13, west from the intersection of Illinois Route 13 and Route 148, shall have a **two thousand (2,000) foot** setback from the right-of-way which shall be zoned as B-2 (Highway Business District), unless otherwise classified in the ordinance for annexation.

40-2-4 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 line 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 a stream, lake or other body of water shall be construed to follow shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

(F) Whenever any street, alley, railroad or public way is vacated by the proper authority, the districts adjoining each side of such street, alley, railroad right-of-way, or public way shall be extended automatically to the center of the vacation and all area included in the vacation shall be subject to the applicable of the extended district. In the event of a partial vacation, the adjoining district or district nearest the portion vacated, shall be extended automatically to include all the vacated area.

ARTICLE III – APPLICATION OF DISTRICT REGULATIONS

40-3-1 GENERAL REGULATIONS. Regulations applicable within each district shall be applied uniformly to each class or kind of structure or land. In particular:

(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 of the regulations herein specified for the district in which it is located. All uses not expressly permitted as a permitted use, an accessory use, or a special use are prohibited.

(B) No building or other structure shall hereafter be constructed or altered:

- (1) To exceed the height or bulk requirements;
- (2) To accommodate or house a greater number of families;
- (3) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein permitted, or in any other manner contrary to the provisions of this Chapter.

(C) No part of a yard, other open space, off-street parking or loading space required in connection with any building for the purpose of complying with this Chapter shall voluntarily be included as part of a yard, open space, off-street parking or loading space similarly required for any other building or any other lot.

(D) No yard or lot existing on the effective date of this Chapter shall be reduced in dimension or area below the minimum requirements set forth in this Chapter. Yards or lots created after the effective date of this Chapter shall meet the minimum requirements established in this Chapter.

(E) Any lot existing on the effective date of this Chapter may be used in any way lots may be used which meet all requirements of the specific zoning classification.

ARTICLE IV - DISTRICT REGULATIONS

40-4-1 SINGLE FAMILY RESIDENTIAL DISTRICTS. (R-1, R-2, and R-3 – Low Density Residential District)

(A) These districts are established to provide areas for single family residential purposes. Persons and families residing in these districts are entitled to protection from the encroachment of other types of uses not compatible with low density residential areas. It is the purpose of these regulations to encourage the creation and maintenance of stable and enduring residential areas by establishing limitations on the use and character of development so as to take advantage of, or to avoid conflict with the natural topography, existing development, arrangements and locations of existing or planned community facilities and social needs of the City.

(B) **Number of Principal Structures Permitted.** No more than **one (1)** principal structure shall be located on a single lot.

(C) **R-1 and R-2 Single Family Residential Districts - Permitted Uses.**

- (1) Single family residences.
- (2) Churches, but not funeral chapels or mortuary chapels.
- (2) Convents, rectories or parish houses to be occupied by not more than **ten (10) persons.**
- (3) Public, private or parochial schools.
- (4) Temporary buildings for construction purposes for a period not to exceed **one (1) year.**
- (5) Family community residences for people with disabilities (1) that would be located more than **six hundred sixty (660) linear feet** from the nearest existing community residence as measured from front door to front door and (2) whose operator or applicant is licensed or certified by the State of Illinois or City of Herrin to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed type of community residence. **(Ord. No. 21-2013; 07-22-13)**

(D) **Permitted Accessory Uses.**

- (1) Private greenhouse, tennis court, patio, swimming pool.
- (2) One storage building per lot.
- (3) Fences, hedges, walls.
- (4) Storage of pleasure boat, unoccupied travel trailer/home.
- (5) Detached garage.

(E) **Special Use Permit Required.**

- (1) Boarding/Rooming Houses.
- (2) Family community residences for people with disabilities that would be located within **six hundred sixty (660) linear feet** of the nearest existing community residence as measured from front door to front door.
- (3) Family community residences for people with disabilities for which a license or certification by the State of Illinois is not required, for which certification from an appropriate national accrediting agency is not required, or which has not been recognized nor sanctioned by Congress.
- (4) Transitional community residences for people with disabilities.
- (5) Cemeteries and mausoleums.
- (6) Funeral homes and mortuaries.
- (7) Home occupations.
- (8) Governmental uses.
- (9) Fire and police stations.
- (10) Public parks.
- (11) Libraries.
- (12) Nursing homes.

- (13) Hospitals.
- (14) Wireless communication facilities.

(Ord. No. 21-2013; 07-22-13)

(F)

General Requirements.

(1) **Lot Size.**

- (a) **R-1. Nine thousand six hundred (9,600) square feet.**
Churches – not less than **one (1) acre.** Schools - **five (5) acres.**
- (b) **R-2. Seven Thousand two hundred (7,200) square feet.**
Churches – not less than **one (1) acre.** Schools - **five (5) acres.**

(2) **Lot Width.**

- (a) **R-1. Single family dwelling - **eighty (80) feet.** Church – **one hundred fifty (150) feet.****
- (b) **R-2. Single family dwelling **sixty (60) feet.** Church –**eight-five (85) feet.****

(3) **Setback Requirements.**

- (a) **R-1. Front yard - **thirty (30) feet.** Side yard - **fifteen (15) feet.****
- (b) **R-2. Front yard - **twenty-five (25) feet.** Side yard - **ten (10) feet.****

Combined totals for interior lots shall not be less than **thirty-five (35) feet.** The side yard on each side of a building on a lot of record which is less than **eighty (80) feet,** shall have width of **ten percent (10%)** of the width of the lot, but shall not be less than **eight (8) feet.**

(c) **R-1 – Rear Yard. **Thirty (30) feet.****

(d) **R-2 – Rear Yard. **Twenty-five (25) feet.****

A one story accessory building may be placed on lot which is adjacent to an alley **five (5) feet** from the lot line abutting the alley.

- (4) **Height. **Thirty-five (35) feet** and not over **two and one-half (2 ½) stories.** Churches shall not exceed **forty-five (45) feet** in height, and the steeple shall not exceed **seventy-five (75) feet.** Accessory buildings shall not exceed **fifteen (15) feet** in height.**

- (5) **Lot Coverage. All buildings, including accessory buildings shall not cover more than **thirty percent (30%)** of the area of the lot.**

- (6) Off-street parking shall be provided.

(G)

R-3 – Single Family Residential District.

(1) **Permitted Uses.**

- (a) Any use permitted in R-1 and R-2 district.
- (b) Condominiums.

(2) **Permitted Accessory Uses.**

- (a) Same as in R-1 and R-2 districts.

(3) **Special Use Permit Required.**

- (a) Same as in R-1 and R-2 districts.
- (b) Duplex.
- (c) Modular home, if meet all requirements in this Chapter and applicable sections of the Herrin Revised Code.
- (d) Government uses.
- (e) Day care facilities for no more than **five (5) children.**

(4) **General Requirements.**

- (a) **Lot Size. **Five thousand five hundred (5,500) square feet.****
Condominiums - **four thousand (4,000) square feet**

- (b) **Lot Width. **Fifty (50) feet.****

- (c) **Front Yard Setback. **Fifteen (15) feet.****

- (d) **Side Yard Setback. **Seven (7) feet** with the exception of condominiums which may be constructed up to side lot lines when they abut another condominium.**

- (e) **Rear Yard Setback.** Twenty (20) feet, or twenty percent (20%) of the depth of the lot, whichever is greater.
- (f) **Lot Coverage.** All buildings and accessory buildings shall not cover more than **thirty percent (30%)** of the area of the lot. Accessory buildings shall not exceed **fifteen (15) feet** in height.
- (g) **Parking.** Off-street parking shall be provided.

(Ord. No. 02-2004; 01-12-04)

40-4-2 "R-3.1" – LOW DENSITY RESIDENTIAL DISTRICT – TWO UNIT DWELLINGS/CONDOMINIUMS.

(A) This district is established to provide areas for single and two-unit residential purposes, which may include condominium/townhouse construction. Persons and families residing in this district are entitled to protection from the encroachment of other types of uses not compatible to low to medium density residential areas. This district is intended to provide for high traffic flow, maintain a quiet atmosphere and provide adequate open space, and discourage incompatible uses while serving as a buffer between single unit residential use and multiple family residential uses.

(B) **Number of Principal Structures Permitted.** No more than **one (1)** principal structure shall be located on a single lot.

(C) **Permitted Principal Uses and Structures.**

- (1) Single family residences.
- (2) Duplex (two unit dwelling).
- (3) Condominiums/townhouses.
- (4) Churches, but not mortuaries or funeral chapels.
- (5) Public, private, parochial schools.
- (6) Convents, rectories, monasteries, or parish houses to be occupied by not more than **ten (10) persons.**
- (7) Temporary buildings for construction purposes for a period not to exceed **one (1) year.**
- (8) Family community residences for people with disabilities (1) that would be located more than **six hundred sixty (660) linear feet** from the nearest existing community residence as measured from front door to front door and (2) whose operator or applicant is licensed or certified by the State of Illinois or City of Herrin to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed type of community residence. **(Ord. No. 21-2013; 07-22-13)**

(D) **Permitted Accessory Uses.**

- (1) Private greenhouse, swimming pool, patio, terrace, tennis court.
- (2) Fences, shrubbery.
- (3) One storage building per lot, or if a duplex, per unit.
- (4) One detached garage, or if a duplex, per unit.
- (5) Storage for pleasure boats and unoccupied travel trailers/homes.

(E) **Special Use Permit Required.**

- (1) Same as in R-1, R-2 and R-3.
- (2) Assisted living facilities.
- (3) Nursing homes.
- (4) Wireless communication facilities.

(F) **General Requirements.**

- (1) **Lot Size.** Ten thousand (10,000) square feet - five thousand (5,000) square feet per unit. Condominiums/townhouses - **four thousand (4,000) square feet** per unit. Churches – not less than **one (1) acre.** Schools – not less than **five (5) acres.**
- (2) **Lot Width.** Sixty (60) feet. Condominium/Townhouse - **forty (40) feet.**

- (3) **Front Yard Setback. Thirty (30) feet.** Condominium/ Townhouse - **twenty (20) feet.**
- (4) **Side Yard Setback. Fifteen (15) feet.** Condominium/ Townhouse - **ten percent (10%)** of lot width on each side, but not less than **eight (8) feet** on each side.
- (5) **Rear Yard Setback. Twenty-five (25) feet.** Condominium/ Townhouse - **fifteen (15) feet.** Townhouse may be constructed up to side lot lines where they abut another townhouse.
- (6) **Maximum Lot Coverage.** All buildings and accessory buildings shall not cover more than **thirty percent (30%)** of the lot area. Accessory buildings shall not exceed **fifteen (15) feet** in height.
- (7) **Parking.** Off-street parking shall be provided.

(Ord. No. 02-2004; 01-12-04)

40-4-3 "R-4" – MULTIPLE FAMILY RESIDENTIAL DISTRICT.

(A) This district is established to provide areas for single, two, three, and four-unit residential buildings developed in combinations that result in no more than **eight (8)** dwelling units per lot or parcel. 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. It is the intent of this district to provide for residential buildings more compatible in scale and character with R-1 dwellings than other types of multiple unit buildings; higher traffic flow, and maintain relatively quiet atmosphere; discourage incompatible uses, and provide less, but adequate open space. This district is intended to provide flexible but controlled medium density development without the necessity for subdivision.

(B) **Number of Principal Structures Permitted. One (1)** principal structure, with no more than **eight (8)** dwelling units, shall be located on any single lot or parcel.

(C) **Permitted Principal Uses and Structures.**

- (1) Single family residences.
- (2) Duplex (two unit dwelling).
- (3) Three unit dwellings.
- (4) Four unit dwellings.
- (5) Condominiums/Townhouses.
- (6) Multiple family dwellings, no more than **eight (8) units.**
- (7) Bed and breakfast.
- (8) Community residences for people with disabilities (1) that would be located more than **six hundred sixty (660) linear feet** from the nearest existing community residence as measured from front door to front door and (2) whose operator or applicant is licensed or certified by the State of Illinois or City of Herrin to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed type of community residence. **(Ord. No. 21-2013; 07-22-13)**
- (9) Governmental uses.
- (10) Churches, places of worship, excluding mortuaries and funeral chapels.
- (11) Public, private, parochial schools.
- (12) Convents, rectories, parish houses, monasteries, to be occupied by not more than **ten (10) persons.**
- (13) Assisted living facilities.
- (14) Day care facilities.

(D) **Permitted Accessory Uses.**

- (1) Same as in R-3.1.

(E) **Special Use Permit Required.**

- (1) Planned unit developments.
- (2) Boarding/rooming houses.
- (3) Nursing homes.

- (4) Funeral homes.
- (5) Professional offices.
- (6) Wireless communication facilities.
- (7) Community residences for people with disabilities that would be located within **six hundred sixty (660) linear feet** of the nearest existing community residence as measured from front door to front door. **(Ord. No. 21-2013; 07-22-13)**
- (8) Community residences for people with disabilities for which a license or certification by the State of Illinois is not required, for which certification from an appropriate national accrediting agency is not required, or which has not been recognized nor sanctioned by Congress. **(Ord. No. 21-2013; 07-22-13)**

(F) **General Requirements.**

- (1) **Lot Size.**
 - (a) **Single Unit Dwellings. Five thousand five hundred (5,500) square feet.**
 - (b) **Two-Unit Dwellings. Six thousand (6,000) square feet, three thousand (3,000) square feet per unit.**
 - (c) **Multiple Family Dwellings (Three or More). Three thousand five hundred (3,500) square feet.**
- (2) **Minimum Lot Width. Fifty (50) feet.**
- (3) **Setbacks.**
 - (a) **Front Yard. Twenty-five (25) feet or twenty percent (20%) of lot depth.**
 - (b) **Rear Yard. Fifteen (15) feet.**
 - (c) **Side Yard. Ten percent (10%) of the lot width on each side, but shall not be less than eight (8) feet, with the exception of townhouses and condominiums which may be constructed up to side lot lines when they abut another townhouse or condominium.**
- (4) **Height. Maximum height - thirty (30) feet. Maximum height of accessory buildings - fifteen (15) feet.**
- (5) **Maximum Lot Coverage. Forty percent (40%).**

(Ord. No. 02-2004; 01-12-04)

40-4-4 PLANNED UNIT DEVELOPMENT DISTRICT (PUD).

(A) This district is established to permit such flexibility and provide performance criteria which may result in planned residential developments which produce:

- (1) A greater choice in the type of environment and living units available to the public.
- (2) Open space and recreation areas.
- (3) A pattern of development which preserves natural topography and prevents soil erosion;
- (4) A creative approach to the use of land and related development.
- (5) An environment of stable character in harmony with surrounding development.

The planned unit development is designed to provide for small and large scale developments incorporating a single type or a variety of residential and related uses which are planned and developed as a unit. Such development may consist of individual lots or it may group buildings on combinations of lots or tracts of land. Open space for common use shall be a major element of the plan.

(B) **Permitted Principal Uses and Structures.**

- (1) All residential uses.
- (2) Bed and breakfast establishments.
- (3) Business uses in conjunction with a residential development, limited to the following:

- (a) Personal services.
- (b) Restaurants, excluding drive-ups.
- (c) Retail-apparel and accessories, food, drugs, general merchandise.
- (4) Community residences for people with disabilities (1) that would be located more than **six hundred sixty (660) linear feet** from the nearest existing community residence as measured from front door to front door and (2) whose operator or applicant is licensed or certified by the State of Illinois or City of Herrin to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed type of community residence. **(Ord. No. 21-2013; 07-22-13)**
- (5) Assisted living residential developments.
- (C) **Accessory Uses.**
 - (1) Those uses and structures customarily incidental to permitted principal uses and on the same parcel.
- (D) **Special Use Permit Required.**
 - (1) Day care centers, which shall provide adequate screening and/or fencing, which shall be designed to be compatible with permitted uses and meet all state licensing requirements. No play ground equipment shall be placed in front yards.
 - (2) Adult day care centers, which shall provide adequate screening and/or fencing, and shall be designed to be compatible with permitted uses and meet all state licensing requirements.
 - (3) Alcoholic beverages may be sold if permitted by a valid local liquor license, but only by the drink on the premises with meals. No package sales shall be permitted.
 - (4) Community residences for people with disabilities that would be located within **six hundred sixty (660) linear feet** of the nearest existing community residence as measured from front door to front door. **(Ord. No. 21-2013; 07-22-13)**
 - (5) Community residences for people with disabilities for which a license or certification by the State of Illinois is not required, for which certification from an appropriate national accrediting agency is not required, or which has not been recognized nor sanctioned by Congress. **(Ord. No. 21-2013; 07-22-13)**
- (E) **Procedure for Granting Planned Unit Development Zoning.**
 - (1) A site plan in accord with **Chapter 41** is required in order to establish the planned unit development zone and land use intensity.
 - (2) A planned unit development may be permitted by the City Council after consideration by the Zoning Board of Appeals at a public hearing. The developer shall present plans, reports and related information in sufficient detail to enable the Zoning Board to evaluate the proposal in accord with this Section. The date for the public hearing shall be scheduled only after all of the following information is provided. The plans shall be of general nature showing the schematic design of the planned unit development and contain the following:
 - (a) Legal description of the property.
 - (b) Number and type of structures proposed for various sections of the development.
 - (c) Locations of internal streets with right-of-way widths indicated and their relationship to existing streets.
 - (d) Location and area of recreation areas.
 - (e) Location and area of public utilities location.
 - (f) Location and size of any business areas.

- (g) Map showing relationship of the proposed development to the adjoining uses.
- (h) Tabulation of total land areas and percentages devoted to each use.
- (3) In reviewing the planned unit development, the Board shall determine if:
 - (a) There is a reasonable justification for the planned unit development.
 - (b) The planned unit development zoning and the land use density will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor diminish and impair property values within the neighborhood.
 - (c) The establishment of the planned unit development will not impede the normal and orderly development and improvement of surrounding property.
 - (d) The proposed planned unit development will permit and encourage an environment or sustained desirability and stability and that it will be in harmony with the character of the surrounding neighborhood.
 - (e) Community facilities, including schools, parks, sewer and water systems are adequate to provide properly for the proposed development.

The Zoning Board shall make a recommendation to the City Council on the appropriateness of the land use intensity in comparison to the density of the existing, surrounding land uses. The City Council shall deny or approve the planned unit development zoning.

(F) **Design Review.** The applicant shall submit final plans for design approval within **six (6) months** after the planned unit development zoning approval. If more than **six (6) months** elapse after zoning approval and final plans have not been submitted for the planned unit development, the Code Inspector shall notify the City Council. An extension of time may be granted by the City Council upon written request by the applicant. In the event an extension is neither requested, nor granted, the Code Inspector shall begin proceedings to have the land rezoned to its previous zoning district designation.

- (G) The final development plan shall include the following:
- (1) Site plan.
 - (2) Relationship of vehicular traffic with respect to pedestrian traffic.
 - (3) Location and use of all structures and areas within the planned unit development.
 - (4) Landscaping (location).
 - (5) Covenants.
 - (6) Any variation from the schematic plan approved at the time of the zoning review.
 - (7) Parking which shall be in conformity with **Article X** of this Chapter.

- (H) **General Requirements.**
- (1) **Minimum Lot Area.** For property in the corporate limits, a minimum tract of **two (2) acres** is required. For property outside the corporate limits, a minimum tract of **five (5) acres** is required.
 - (2) **Minimum Lot Width. Three hundred fifty (350) feet.**
 - (3) **Minimum Front Yard Depth. Twenty-five (25) feet.**
 - (4) **Minimum Rear Yard Depth. Twenty (20) feet.**
 - (5) **Minimum Side Yard. Twenty (20) feet** on each side.

ARTICLE V – BUSINESS DISTRICTS

40-5-1 “B-1” CENTRAL BUSINESS DISTRICT. This district is the location of downtown business district, and the purposes of the district are to protect the downtown by encouraging uses serving, primarily, pedestrian oriented traffic; discouraging uses requiring large areas of land in proportion to pedestrian traffic generated; and encouraging intensive use of the land. Uses permitted in this district include establishments dealing predominantly in retail trade, public and private offices, and personal and business services. It is intended that off-street parking needs in this district be met with public or commercially operated parking lots instead of by the individual establishments in order that the land may be used more efficiently and traffic more easily controlled.

Within the “B-1” Central Business District, the following shall apply: Landscaping and the use of appurtenances shall be sensitive to the individual structures, its occupants and their needs. The landscape treatment shall be compatible with surrounding structures and landscapes.

(A)

Permitted Uses.

- (1) Art galleries, libraries and museums.
- (2) Apparel cleaning services.
- (3) Automobile services and auto dealers (new and used), provided off-street parking is provided for deliveries.
- (4) Banks/financial institutions.
- (5) Barbers/beauty shops.
- (6) Bars, taverns.
- (7) Bakery/delicatessens.
- (8) Bowling alleys.
- (9) Clubs and lodges.
- (10) Cultural and philanthropic uses.
- (11) Department and drug stores.
- (12) Florists (excluding greenhouses).
- (13) Food and fruit stores.
- (14) Furniture and household goods.
- (15) Government buildings.
- (16) Health club/gymnasium.
- (17) Hotels/bed and breakfast establishments.
- (18) Laundromats.
- (19) Photographers.
- (20) Print shops.
- (21) Professional and business offices, excluding veterinarians who provide boarding services.
- (22) Radio/television stations.
- (23) Restaurants (with the exception of establishments with drive through facilities).
- (24) Retail/merchandise.
- (25) Theaters/movie theaters, with the exception of adult uses.

(B)

Special Use Permits Required.

The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in **Chapter 40, Article XVI, Division III** as appropriate:

- (1) Adult-Use Cannabis Dispensing Organization. **(Ord. No. 30-2020; 08-24-20)**
- (2) Body shops associated with automobile dealers.
- (3) Dwelling units above the main floor.
- (4) Greenhouses as part of a florist shop.
- (5) Gasoline/service stations.
- (6) Restaurants with drive through facilities, or outdoor facilities.
- (7) Wireless communication facilities.

Any accessory use incidental to the above permitted uses, provided the accessory uses meet all other requirements of this Zoning Code.

(C)

Conditions of Use.

All business activities, except for automobile off-street parking facilities and new and used car inventory, and similar inventories (boats, campers, motorcycles, riding lawn mowers) shall be conducted wholly within an enclosed building.

(D) **Structures/Buildings.** Steel frame metal construction and wood frame metal construction, commonly known as pole barns, are expressly prohibited in the B-1 zoning district, unless the exterior of the building is covered with brick or wood, in conformity with surrounding structures. "Surrounding structures" does not include those metal buildings which may have been in place on the date of the adoption of this Chapter.

(E) **Height of Buildings.** The height of all buildings or structures shall be determined by a maximum floor ratio of **two (2)**.

(F) **Yard Areas.** No building or structure shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building.

(1) **Front Yards.** No front yard shall be required when all frontage between **two (2)** intersecting streets lies within this District. However, when lots within this District are adjacent to and adjoining lots in a residential district, all of which front upon the same street between **two (2)** intersecting streets, there shall be established the same front yard setback for all of the frontage as has been established in the adjoining residential district.

When existing buildings located in this District have already established a building line at the street line at a depth less than that stated hereinabove, then all new buildings shall conform to the same building line, except for the first **fifty (50) feet** of the "B-1" District frontage adjacent to the residential district, whereupon, there shall be provided a front setback of not less than **ten (10) feet**.

(2) **Side Yard.** No side yard is required, except for a corner lot which abuts upon a residential district, or upon an alley separating this district from a residential district. There shall then be provided a side yard equal to **one-half (1/2)** the front yard required in the abutting residential district, but in no case, more than **ten (10) feet**. The same setback shall apply also if business buildings front the intersecting street, commonly referred to as side streets.

(3) **Rear Yard.** There shall be a rear yard of not less than **twenty (20) feet** provided however, that a one-story accessory building may be located thereon, except for the **five (5) feet** adjacent and parallel to the rear lot line or alley line, for the storage of motor vehicles and the loading and unloading of vehicles under roof as provided in **Section 40-12-15** of this Code.

(G) **Off-Street Parking and Loading Facilities.** Off-street loading facilities shall be provided as required in **Article XII** of this Chapter, and off-street parking shall be provided in accord with **Article XII**, in accord with the use to be constructed.

40-5-2 HISTORIC PRESERVATION BUSINESS DISTRICT.

(A) **Statement of Intent.** This District is established to preserve and protect the historic business district within the City, so as to protect the character and architectural integrity of the City's buildings, and promote the redevelopment of the downtown in an orderly fashion. The Historic Preservation Business District is an overlay district for the purpose of imposing appropriate regulations in addition to the requirements contained in the B-1 zoning district. The Historic Preservation Business District Map is attached hereto as **Appendix "A"** and made a part of this Chapter by reference.

(B) **Permitted Uses.** All uses permitted in the B-1 business district, with the exception of laundromats, gasoline stations, greenhouses, animal hospitals or boarding facilities.

(C) **Conditions of Use.** All activities and uses in the Historic Preservation Business District, shall comply with the Preservation District Ordinance, as set forth in **Article IX** of this Chapter, and shall be considered by the Preservation Advisory Committee, in addition to the Zoning Board of Appeals prior to the issuance of any permit.

(D) **Design Standards.** All alterations, modifications, additions, or improvements to existing structures located in the Historic Business District shall be subject to the following design standards:

- (1) The height of proposed structures or additions or alterations shall be compatible with surrounding structures.
- (2) The proportion of the structure's front façade shall be compatible with surrounding structures.
- (3) The proportions and relationships between windows and doors shall be compatible with surrounding structures and in proportion to the structure's front façade.
- (4) The relationship of the proposed structure to the open space between it and adjacent structures shall be compatible.
- (5) The design and type of roof shall be compatible with surrounding structures.
- (6) The scale of the proposed structures shall be compatible with surrounding structures.
- (7) The street facades shall blend with other structures with respect to directional expression, when adjacent structures have dominant horizontal or vertical expression, such expression shall be reflected.
- (8) Architectural details and materials shall be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the district.
- (9) **Structures.** Steel building construction and wood frame metal buildings (pole barns) shall be prohibited in this district.
- (10) **Regulations Regarding Dogs.** No dog pens or dog houses of any type or nature shall be constructed and used in the Historic Preservation Business District.

40-5-3

B-2 HIGHWAY BUSINESS DISTRICT.

(A) **Statement of Intent.** This District is created to provide areas for certain business, service, and public uses adjacent to or near major thoroughfares. The permitted uses in this District are of a type which more typically serves consumers on special purpose trips and are therefore not as dependent on being associated with other uses. It is intended that all uses, including accessory uses, in this District provide an appropriate amount of off-street parking and loading facilities.

Within the B-2 (Highway Business District), uses and construction shall be compatible with surrounding structures and uses. Steel building construction and wood frame metal buildings shall only be permitted when the exterior of the building is finished with a brick, wood, or vinyl, that is compatible with surrounding buildings. The phrase "surrounding buildings" is not intended to include metal buildings which may exist in the surrounding area on the date of the adoption of this Chapter.

(B)

Permitted Principal Uses and Structures.

- (1) Any use permitted in the B-1 (Central Business District).
- (2) Any use permitted in PA (Professional Office/Administrative) District.
- (3) Laundromats.
- (4) Automobile services and auto dealers, new and used, provided all services are performed in an enclosed building.
- (5) Banks/financial institutions.
- (6) Barbers/beauty shops.
- (7) Bowling alleys.
- (8) Retail/merchandise.
- (9) Dramshops, i.e., taverns, lounge, bars.
- (10) Movie theaters.
- (11) Fruit and vegetable stands.
- (12) Governmental uses.
- (13) Hotels/motels.
- (14) Mobile/modular homes.
- (15) Nurseries/greenhouses.
- (16) Photographers.

- (17) Public utility offices.
- (18) Restaurants.
- (19) Radio/television studios.
- (20) Small animal hospital or clinic.
- (21) Gasoline service stations.
- (22) Convenience stores.
- (23) Roller, ice skating.
- (24) Video/audio/DVD rental.
- (25) Health club/gymnasiums.

(C) **Conditions of Use.** All business activities, except for automobile off-street parking facilities and new and used automobile inventory, and similar inventories (boats, campers, motorcycles, riding lawn mowers) shall be conducted wholly within an enclosed building.

(D) **Permitted Accessory Uses.**

- (1) Off-street parking and loading.
- (2) Storage of merchandise or inventory usually carried in stock, provided that such storage shall be located on the same lot with the business and shall be in a completely enclosed building.
- (3) Refuse facilities, provided that such facility shall be located on the same lot with the business and shall be completely screened from the street and adjacent property.

(E) **Special Use Permits Required.** The following conditional uses may be permitted in specific situations in accordance with the procedures outlined in **Chapter 40, Article XVI, Division III**, as appropriate:

- (1) Adult-Use Cannabis Dispensing Organization. **(Ord. No. 30-2020; 08-24-20)**
- (2) Adult-Use Cannabis Infuser Organization. **(Ord. No. 30-2020; 08-24-20)**
- (3) Adult-Use Cannabis Processing Organization. **(Ord. No. 30-2020; 08-24-20)**
- (4) Adult-Use Cannabis Transporting Organization. **(Ord. No. 30-2020; 08-24-20)**
- (5) Day care centers, including childcare, adult care, nursery schools, kindergartens, and workshops for the mentally or physically disabled.
- (6) Planned unit development.
- (7) Adult entertainment.
- (8) Wireless communication facilities.

(F) **General Requirements.**

- (1) **Height.** No building or structure shall exceed **three (3) stories** or **thirty-five (35) feet** in height.
- (2) **Lot Size.** Every building shall be constructed on a lot having an area of not less than **ten thousand (10,000) square feet** and a width at the established building line of not less than **eighty (80) feet**, except as provided hereinbelow in paragraph (G).
- (3) **Yard Areas.** No building or structure shall be constructed or enlarged unless the following yards are provided and maintained in connection with such building.
 - (a) **Front Yard.** Each lot upon which a building is constructed shall have a front yard of not less than **fifty (50) feet**.
 - (b) **Side Yard.** Each lot upon which a building is constructed shall have a side yard of not less than **thirty-five (35) feet**. In the event the lot abuts a residential district, there shall be provided a side yard equal to twice the front yard required in the abutting residential district, and in no case, less than **forty (40) feet**.
 - (c) **Rear Yard.** There shall be a rear yard of not less than **forty (40) feet**, provided that a permitted accessory building may be located on the lot with a minimum of **ten (10) feet** setback from the rear lot line, or alley.
 - (d) **Buffer Area.** On lots abutting residential districts, there shall be provided a **twenty (20) foot** wide planting strip extending the length of the lot adjoining the residential district, planted with trees and shrubs to provide a dense screen.

(G) **Special Requirements.** In the area of the B-2 District on South Park Avenue, commencing with Lyerla Street south to Clark Trail Drive, where a substantial portion of the current buildings cannot conform to those requirements set forth in paragraph (F) hereinabove, the setback lines and yard areas shall be determined on a case by case basis, in consideration of the development, redevelopment or addition. No development or redevelopment shall occur in this area which expands the lot coverage or setback lines in place on the effective date of this Code.

40-5-4 PROFESSIONAL/ADMINISTRATIVE OFFICE DISTRICT (PA).

(A) **Statement of Intent.** This district is created to reserve specific areas for intermediate uses to serve as a buffer area between residential districts and business districts, to create an environment for professional and administrative office buildings located on sites sufficiently large to provide landscaping and off-street parking, and to minimize traffic congestion. A site plan shall be required pursuant to **Chapter 41** of the City Code.

(B) **Permitted Principal Uses.**

- (1) Banks, credit unions, trust companies and financial advisory services.
- (2) Government offices.
- (3) Professional offices.
- (4) Animal hospitals (small), provided no boarding of animals is permitted.
- (5) Construction company offices.
- (6) Insurance/real estate sales.
- (7) Business and administrative office of commercial enterprises.
- (8) Museums, art galleries and studios of artists, sculptors, photographers.

(C) **Permitted Accessory Uses.**

- (1) Off-street parking and loading.
- (2) Storage of inventory necessary for specific business, provided that such storage shall be located on same lot with the business and within a completely enclosed building of the same construction and quality of the principal building. Temporary storage buildings are prohibited.
- (3) Trash receptacles shall be screened from all sides, with a gate for access.

(D) **Special Uses.** After application and hearing before the Zoning Board of Appeals, the following uses may be permitted:

- (1) Day care centers for adults and children.
- (2) Churches and other places of worship.
- (3) Fire stations.
- (4) Other uses which are specifically related to the permitted uses, such as, but not limited to, pharmacies, dental laboratories, etc.
- (5) Wireless communications facilities.

(E) **General Requirements.**

- | | |
|---|----------------------------------|
| (1) Minimum lot size | 21,780 square feet |
| (2) Minimum lot width | 150 feet |
| (3) Minimum front yard width | 50 feet |
| (4) Maximum height | 35 feet |
| (5) Minimum rear yard | 40 feet |
| (6) Side yard | |
| (a) Minimum distance to adjacent lot line | 20 feet |
| (b) Minimum distance to residential area | 50 feet |
| (7) Height | 35 feet and not over 2 ½ stories |

(F) **Parking.** **One (1)** off-street parking space shall be provided for each **two hundred fifty (250) square feet** of gross floor area, or fraction thereof. Other applicable requirements of **Article XII** of this Chapter shall be required.

40-5-5 NB NEIGHBORHOOD BUSINESS DISTRICT.

(A) **Statement of Intent.** This district is created to provide areas for certain business and service uses within residential neighborhoods. This district is to be restricted in size and function 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 within **one-half (1/2) mile** of another neighborhood business district. It is further intended that the Neighborhood Business District be compact and not divided by streets.

(B) **Permitted Principal Uses and Structures.**

- (1) Grocery stores, does not include supermarkets.
- (2) Pharmacies, unassociated with any other retail business.

- (3) Book stores, new and used.
 - (4) Management consulting services.
 - (5) Beauty and barber services.
 - (6) Alteration and garment repair.
 - (7) Antique stores.
- (C) **Accessory Uses.**
- (1) Parking, which shall be off-street parking.
 - (2) Trash receptacles, which shall be screened from adjacent property.
- (D) **Special Use Permits Required.**
- (1) Day care for children and adults, subject to state licensing requirements.
 - (2) Laundering and dry cleaning, self service only.
- (E) **Special Use Performance Standards.**
- (1) Day care centers, children or adults, shall provide adequate screening and/or fencing and be designed to be compatible with permitted uses, and subject to maximum hours of operation.
 - (2) Laundering and cleaning, self service only, shall provide sufficient parking to avoid on street parking of customers, and adequate screening to be compatible with the permitted uses. In addition, the service may be subject to maximum hours of operation.
- (F) **General Requirements.**
- (1) **Minimum Lot Area.** Minimum lot areas shall be the same as the standards for the adjoining residential district. Adjoining shall mean across any street or alley.
 - (2) **Minimum Lot Width.** Minimum lot width shall be the same as the standards for the adjoining residential district. Adjoining shall be interpreted to include across any street or alley.
 - (3) **Minimum Front Yard.** The minimum front yard shall be the same as the standards for the adjoining residential district. Adjoining shall be interpreted to include across any street or alley.
 - (4) **Minimum Rear Yard Depth.** The minimum rear yard depth shall be the same as the standards for the adjoining residential district which has the most restrictive requirement for rear yard depth. Adjoining shall be interpreted to include across any street or alley.
 - (5) **Minimum Side Yard Width.** The minimum side yard shall be the same as the standards for the adjoining residential district which has the most restrictive requirement for side yard depth. Adjoining shall be interpreted to include across any street or alley.
 - (6) **Parking.** Off-street parking and loading facilities shall be required, and any open storage and refuse collection containers shall be screened by a fence or plantings at least **six (6) feet** in height.

ARTICLE VI – PROVISIONS GOVERNING INDUSTRIAL DISTRICT

40-6-1 "I-1" GENERAL INDUSTRIAL DISTRICT.

(A) **Statement of Intent.** This District is established to provide space for certain types of industrial and/or manufacturing or warehousing and other uses which are incompatible in the general business districts. Such uses may require the storage of materials, goods, or equipment.

(B) **Permitted Principal Uses and Structures.**

- (1) Any use permitted in the B-2 District, with the exception of restaurants and fruit and vegetable stands.
- (2) Adult entertainment.
- (3) Places of amusement and recreation, i.e., paint ball, batting ranges.
- (4) Animal hospitals and kennels.
- (5) Boat sales and service.
- (6) Business machines, repair and service storage and wholesale.
- (7) Candy, wholesale distribution.
- (8) Carpenters' shops and power woodworking.
- (9) Cement products, wholesale, pipe and block, etc.
- (10) Ceramic products.
- (11) Cleaning and dry cleaning establishments.
- (12) Cold storage.
- (13) Contractors, equipment and storage.
- (14) Dairies and creameries.
- (15) Express companies, warehouses.
- (16) Feed and seed stores.
- (17) Food products, distributors and warehousing.
- (18) Furniture, repair and refinishing.
- (19) Kennels.
- (20) Lumberyards.
- (21) Machine shops and equipment rental service.
- (22) Plumbing, heating and air conditioning equipment supplied and accessories.
- (23) Storage for automobiles, storage yards, bulk material and self storage.
- (24) Trailer sales.
- (25) Termite control contractor shops.
- (26) Warehouses.
- (27) Welding, equipment and supplies.
- (28) Wireless communications facilities.

(B) **Permitted Accessory Uses.**

- (1) Storage of products shall be in an enclosed area, with proper screening and fencing.
- (2) Offices.

(C) **Special Use Permit Required.** The following special uses may be permitted in specific situations in accordance with the procedures outlined in **Chapter 40, Article XVI, Division III**, as appropriate:

- (1) Adult-Use Cannabis Craft Grower Organization. **(Ord. No. 30-2020; 08-24-20)**
- (2) Adult-Use Cannabis Dispensing Organization. **(Ord. No. 30-2020; 08-24-20)**
- (3) Adult-Use Cannabis Infuser Organization. **(Ord. No. 30-2020; 08-24-20)**
- (4) Adult-Use Cannabis Processing Organization. **(Ord. No. 30-2020; 08-24-20)**
- (5) Adult-Use Cannabis Transporting Organization. **(Ord. No. 30-2020; 08-24-20)**
- (6) Motor freight terminals.
- (7) Junk yards, subject to proper fencing and state licensing requirements.
- (8) Sewerage treatment facilities.

(D) **General Requirements.**

- (1) **Minimum Lot Area.** ½ acre
- (2) **Minimum Lot Width.** 120 feet
- (3) **Minimum Front Yard.** 20 feet
- (4) **Minimum Rear Yard.** 20 feet
- (5) **Minimum Side Yard.** 15 feet

(E) **Special Requirements.** When operations, other than office use are visible from a public street of residential district, screening shall be provided by a fence and plantings at a minimum height of **six (6) feet**.

ARTICLE VII – AGRICULTURE ZONING DISTRICT

40-7-1

AG AGRICULTURE ZONING DISTRICT.

(A) **Statement of Intent.** This District is created to provide land for purposes devoted to general agricultural, horticulture or forestry, including crop and tree farming, truck farming, gardening, nursery operation, dairy farming, livestock raising.

(B) **Permitted Principal Uses and Structures.**

- (1) Single family residence.
- (2) Cemeteries.
- (3) Churches.
- (4) Animal hospitals, provided animals are kept in a completely enclosed area.
- (5) Kennels.
- (6) Public service uses, filtration plants, pump stations, sewerage treatment plants.
- (7) Maintenance facilities.
- (8) Temporary produce stands, provided off-street parking provided.
- (9) Golf courses.
- (10) Home occupations.
- (11) Riding stables.
- (12) Self storage units.
- (13) Travel trailer parks.
- (14) Wireless communication facilities.
- (15) Family community residences for people with disabilities (1) that would be located more than **six hundred sixty (660) linear feet** from the nearest existing community residence as measured from front door to front door and (2) whose operator or applicant is licensed or certified by the State of Illinois or City of Herrin to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed type of community residence. **(Ord. No. 21-2013; 07-22-13)**

(C) **Accessory Uses.**

- (1) Storage of equipment, but not junk yards.

(D) **Special Use Permit Required.**

- (1) Auction houses.
- (2) Adult entertainment, provided all requirements set forth in **Section 40-11-19** are met.
- (3) Private lodges, camps.
- (4) Gun clubs, if properly protected and not nearer than **one thousand (1,000) feet** to any residence.
- (5) Wireless communication facilities.
- (6) Family community residences for people with disabilities that would be located within **six hundred sixty (660) linear feet** of the nearest existing community residence as measured from front door to front door. **(Ord. No. 21-2013; 07-22-13)**
- (7) Family community residences for people with disabilities for which a license or certification by the State of Illinois is not required, for which certification from an appropriate national accrediting agency is not required, or which has not been recognized nor sanctioned by Congress. **(Ord. No. 21-2013; 07-22-13)**
- (8) Transitional community residences for people with disabilities. **(Ord. No. 21-2013; 07-22-13)**

(E) **General Requirements.**

- (1) **Minimum Lot Area.** 3 acres
- (2) **Minimum Lot Width.** 150 feet
- (3) **Minimum Front Yard.** 80 feet

- (4) **Minimum Rear Yard.** 30 feet
- (5) **Minimum Side Yard.** 30 feet

(F) **Special Requirements.** No structures or enclosed pens in which livestock, fowl, and animals are kept shall be closer than **two hundred (200) feet** to any residential or business district.

ARTICLE VIII – MOBILE HOME DISTRICT

40-8-1 MOBILE HOME DISTRICT.

(A) **Statement of Intent.** This District is created to provide areas in which mobile home parks may be situated for residential dwelling purposes. It is the intent that this District be a desirable permanent area providing adequate open space for its residents.

(B) **Permitted Principal Uses and Structures.**

- (1) Mobile home dwellings.
- (2) Family day care homes.
- (3) Community residences for people with disabilities (1) that would be located more than **six hundred sixty (660) linear feet** from the nearest existing community residence as measured from front door to front door and (2) whose operator or applicant is licensed or certified by the State of Illinois or City of Herrin to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed type of community residence. **(Ord. No. 21-2013; 07-22-13)**
- (4) Laundromats, including coin-operated dry cleaning machines.
- (5) Parks and playgrounds.

(C) **Permitted Accessory Uses and Structures.**

- (1) One single unit dwelling of conventional construction for occupancy by the manager of the park.
- (2) Storage buildings, one per mobile home.

(D) **Special Use Permit Required.**

- (1) Community residences for people with disabilities that would be located within **six hundred sixty (660) linear feet** of the nearest existing community residence as measured from front door to front door.
- (2) Community residences for people with disabilities for which a license or certification by the State of Illinois is not required, for which certification from an appropriate national accrediting agency is not required, or which has not been recognized nor sanctioned by Congress.

(Ord. No. 21-2013; 07-22-13)

(E) **General Requirements.**

- (1) **Minimum Lot Area.** 2 acres
- (2) **Minimum Width.** 200 feet
- (3) **Minimum Front Yard Depth.** 30 feet
- (4) **Minimum Rear Yard Depth.** 25 feet
- (5) **Minimum Side Yard.** 20 feet

(F) **Performance Standards.**

- (1) All mobile homes shall be located at least **fifteen (15) feet** from all internal private roads.
- (2) All mobile homes shall be located a minimum of **twenty-five (25) feet** from any other mobile home in the park and comply with all requirements set forth in **Chapter 23 (Mobile Homes)** of the City Code.
- (3) Recreational open space shall be provided for each mobile home park. Such spaces shall not be part of any mobile home lot and shall not be used for any other purposes.
- (4) All utilities shall be placed underground.
- (5) A **six (6) foot** fence or evergreen plantings which shall attain the height of **six (6) feet** in **three (3) years**, or a combination of the two, shall be constructed along the perimeter of the property line of the mobile home park.

- (6) All mobile home lots shall be served from internal private streets within the park, and there shall be no direct access from a mobile home park lot to a public street or alley.
- (7) All interior private streets shall be a minimum of **twenty-four (24) feet**; however a minimum of **twenty (20) feet** shall be reserved for traffic lanes.
- (8) Each mobile home park shall provide a screened area for refuse disposal of sufficient size for the number of units served.
- (9) Each mobile home park shall be licensed and comply with all requirements of the Mobile Home Park Act, as amended.

ARTICLE IX – PRESERVATION DISTRICT

40-9-1 STATEMENT OF INTENT. The preservation district is established to recognize that changes in residential, business and industrial land use may threaten the property and improvements of the City which are the foundation of its traditions and stability. In the interest of the public health, safety and general welfare and to advance sound planning practices, it is necessary that the properties and improvements having special historical, architectural, community or aesthetic significance be preserved, enhanced and restored to use. The Preservation District designation is an overlay district and shall impose appropriate regulations on the designated property in addition to the requirements contained in the basic underlying zoning district.

40-9-2 PURPOSES.

(A) To identify, designate, preserve, enhance, and perpetuate those properties and improvements, which reflect the historical, cultural, economic, artistic, social, or heritage, or which may have a special community or aesthetic interest or value to the City, or properties which may be representative of an architectural or engineering type inherently valuable for the study of a period, style, craftsmanship, method of construction or use of indigenous materials.

(B) To preserve and protect the character and vitality of traditional areas in the City from the adverse effects of inappropriate development that could detract or have a blighting effect on the quality in these areas.

(C) To preserve the existing housing stock and to conserve and improve the City's tax base and to promote economic development through restoration, rehabilitation and maintenance.

(D) To foster civic pride in the beauty and accomplishments of the past and to promote the education of the general public regarding preservation.

(E) To protect and enhance the attractiveness of the City to residents, prospective residents, and visitors, and support and stimulate business, commerce, and industry, resulting in an economic benefit to the City.

(F) To foster and encourage preservation, restoration and rehabilitation of structures, areas, neighborhoods, and prevent future blight and deterioration.

40-9-3 DEFINITIONS. Words and phrases used in this Article shall have the common meaning unless defined below or in **Section 40-1-2** of this Chapter.

Addition: Any act or process which changes one or more of the exterior architectural features of a structure which is located in a designated preservation district, by adding to, joining with or increasing the size or capacity of the structure.

Alteration: Any act or process which changes one or more of the exterior features and/or interior features of a property and/or improvements on the property which is subject to the design standards for the district in which the property is located.

Advisory Committee Member: Voting member of the Herrin Historic Preservation Committee.

Area: A specific geographic division of the City.

Building: Any structure created for the support, shelter, or enclosure of persons or property of any kind and which is permanently affixed to the land.

Certificate of Appropriateness: A certificate issued by the Historic Preservation Committee indicating its approval of plans for alteration, construction or demolition on property or improvements within a designated district.

Certificate of Economic Hardship: A certificate issued by the Historic Preservation Committee authorizing an alteration, construction or demolition of property or improvements although a certificate of appropriateness has previously been denied.

City Council: The Herrin City Council.

Committee: The Herrin Historic Preservation Committee.

Construction: Any act or process which adds an addition onto an existing structure, or constructs a new principal or accessory structure on a lot which is subject to the design standards for the district in which the property is located.

Demolition: Any act or process which destroys or removes, in whole or in part, a feature of a property and/or improvement on the property which is subject to the design standards for the district in which the property is located.

Design Standards: The guidelines that regulate alteration, construction and demolition in a designated preservation district.

Designated District: An area within the zoning jurisdiction of the City that has been approved by ordinance by the City Council as an historic district or preservation district.

Economic Hardship: Circumstances affecting a property owner wherein the owner cannot in accord with the design standards of a designated district maintain, construct, alter, or demolish property without experiencing substantial financial harm or loss of reasonable use of the property. The absence of current or potential profit in the sale, lease or other use of the property without acquisition of a certificate of appropriateness is not, in itself, considered economic hardship.

Exterior Features: The architectural character, general composition and/or general appearance of an improvement, including but not limited to the kind, color and texture of building materials, the type, design and character of windows, doors, light fixtures, signs, fences and appurtenant elements.

Improvement: Any building, structure, landscaping, work of art, parking facility, fence, gate, wall or other object constituting a physical addition to real property, or any part of such addition.

Interior Features: The architectural character, general composition and/or general appearance within an improvement, including but not limited to the kind, color, and texture of building materials, the type, design and character of windows, doors, light fixtures, ornamental plasterwork, moldings, ceiling and wall materials, flooring, stairways and appurtenant elements.

Landmark: A property or structure designated by ordinance of the City Council, according to criteria and pursuant to procedures prescribed in this Section, which 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 the owner on the records of the County Recorder of Deeds.

Parcel of Land: A distinct piece of real property which is assigned separate tax identification number (permanent parcel number).

Preservation District: An area designated by ordinance according to criteria and pursuant to procedures prescribed in this Section, which contains within definable geographic boundaries, properties or structures which may not necessarily be of historic and/or architectural significance, but which may be considered traditional in character and which may be threatened by inappropriate development that could detract or have a blighting effect on the quality of life in the area.

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 an addition, alteration, modification, or relocation.

Structure: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting 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 wall which expand the building in height, width or bulk.

40-9-4 **HISTORIC PRESERVATION COMMITTEE.** The Herrin Historic Preservation Committee shall consist of **nine (9)** voting members, who shall be residents of the City, appointed by the Mayor, with the consent and approval of the City Council. The initial members shall serve staggered terms of **three (3) persons for three (3) years, three (3) persons for two (2) years, and three (3) persons for one (1) year.** As each initial term expires, members shall serve until their successors have been appointed and qualified. Vacancies shall be filled by appointments for the unexpired terms only. Members may serve for more than **one (1) term** and shall serve without compensation. Any member may be removed by the Mayor, subject to ratification by the City Council.

40-9-5 **QUALIFICATIONS.** The members of the Historic Preservation Committee shall be appointed on the basis of expertise, experience, or interest in the area of architectural history, building construction or engineering, finance, historical or architectural preservation, neighborhood preservation or real estate.

40-9-6 **OFFICERS.** Officers shall consist of a chairman, vice-chair, and a secretary elected by the Committee. The officers shall serve a period of **two (2) years**, and shall be eligible for re-election. The Chair 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 chair shall be elected for purposes of a meeting.

40-9-7 **MEETINGS.** A quorum shall consist of a majority of the members. Meetings shall be held at regularly scheduled times to be established by resolution of the Committee at the beginning of each calendar year, or at any time upon the call of the Chairman, or by **three (3) members** of the Committee. All decisions shall be made by a majority vote of those members present. All meetings of the Committee shall be open to the public and conform to the requirements of the Illinois Open Meetings Act. No committee member shall vote upon any matter which may directly affect the property, income or business of that committee member. No action shall be taken by the committee on a certificate of appropriateness or certificate of economic hardship which could in any manner deprive or restrict the owner of a property in its use, modification, maintenance, disposition or demolition until such owner shall first have had the opportunity to be heard at a public meeting of the Committee.

40-9-8 **POWERS AND DUTIES.** The Historic Preservation Committee shall have the following powers and duties:

- (A) To adopt its own procedural regulations and by-laws consistent with applicable law.

- (B) To conduct an ongoing survey to identify properties, improvements, and areas that have historic, architectural or community interest.
- (C) To investigate, hold public hearings and recommend to the City Council the adoption of ordinances designating certain properties, improvements and areas having special historic, architectural or community value as historic districts, landmarks and preservation districts. The recommendation shall also include specific design standards for the proposed historic district, landmark, or preservation district that have been developed after consultation with owners and occupants of the proposed designated district.
- (D) To keep a register of all property and improvements which have been designated for preservation under this Article, including all information required for each designation.
- (E) To review applications for alteration, construction, and demolition affecting property formally under consideration for designation or located within the boundaries of designated historic districts, landmarks and preservation districts; and to issue, deny or modify certificates of appropriateness, for such actions. Applicants may be required to submit plans, drawings, elevations, specifications and other information as may be necessary.
- (F) To consider applications for certificates of economic hardship that would allow the performance of work for which a certificate of appropriateness has been denied.
- (G) To advise and assist owners of property or structures within designated districts on physical and financial aspects of preservation, renovation, rehabilitation and reuse, and/or procedures for inclusion on the State and/or the National Register of Historic Places.
- (H) To recommend to the City Council the nomination of landmarks and historic districts.
- (I) To determine an appropriate system or markers for designated landmarks and buildings or structures within districts consistent with other provisions of the City Code.
- (J) To inform and educate the citizens of the City concerning the historic and architectural heritage of the City.
- (K) To call upon City staff members for technical advice.
- (L) To review proposed zoning map amendments, applications for special uses or application for zoning variances that affect designated districts. The Code Inspector shall notify the Chairman of the Historic Preservation Committee of hearings before the Zoning Board of Appeals when property located in a preservation district is the subject of the request.
- (M) To testify before other City boards, including the Zoning Board of Appeals, on matters affecting any designated preservation district, and on matters affecting historically or architecturally significant property or structures.
- (N) To periodically review the Zoning Code and to recommend to the Zoning Board of Appeals and the City Council any amendments appropriate for the protection and continued use of property or structures within designated preservation districts.
- (O) To advise the City Council on the use of gifts, grants, property interest or money as may be designated by the grantor for the purpose of preservation.
- (P) To confer recognition upon the owners of property or structures within designated districts by means of certificates, plaques, markers or other means.
- (Q) To undertake such other action or activity relative to preservation in the community that may be authorized by the City Council.

40-9-9 DESIGNATION PROCEDURES. Nominations for designation of landmarks or preservation districts shall be made to the Historic Preservation Committee on a form provided by the Committee. Such nominations may be submitted by a member of the Committee, the owner of record of the nominated property, the City Council, the Zoning Board of Appeals, or any other person.

(A) **Nominations for Landmarks, Historic/Preservation Districts.** Nominations for landmarks, historic and/or preservation districts shall be made to the Historic Preservation Committee on a form prepared by the Committee. All applications shall include the following information:

- (1) A petition in support of the nomination signed by the owners of record of **twenty percent (20%)** of the parcels located within the boundaries of any proposed historic or preservation district.

- (2) A map delineating the proposed boundaries and legal descriptions of all property within the boundaries of any proposed historic or preservation district.
- (3) A written statement setting forth the reason(s) the property, structure or area is eligible for nomination. The statement shall indicate and substantiate which of the criteria in paragraph (C), hereinafter, are applicable.

(B) **Regulation of Demolition During the Nomination Review.** Upon receipt of a completed nomination, no building or structure nominated and under consideration to be a landmark, or part of a historic or preservation district shall be demolished without compliance with the following provisions:

- (1) Written notice of the proposed demolition shall be given to the Historic Preservation Committee, and the applicant for demolition permit shall be notified in writing of the procedure for Preservation Committee review.
- (2) The Historic Preservation Committee shall consider the proposed demolition. If the Committee does not object to the demolition, the Committee shall promptly notify the Code Inspector. In the event the Committee takes no action within **thirty (30) days** from the date of the demolition application, the Code Inspector may issue the demolition permit. If the Committee objects, it shall schedule a public hearing on the proposed demolition.
- (3) When circumstances exist that may pose an imminent threat to the health, safety or welfare of the public, the City Council may authorize by motion the demolition of property without following the steps outlined in (1) and (2) hereinabove. Prior to the City Council taking action on the proposed demolition, it shall have been presented with a written report from a licensed structural engineer or architect which describes the condition of the structure and identifies factors which may constitute an imminent threat to the health, safety or welfare of the public.

(C) **Preliminary Review.** The Historic Preservation Committee shall, on the receipt of a properly completed nomination, make a preliminary determination within **thirty (30) days** whether the nominated property, structure or area meets one or more of the following criteria for designation:

- (1) Its character, interest or value as part of the development, heritage or cultural characteristics of the community, County or State.
- (2) Its location as a site of significant local, County, or State.
- (3) Its identification with a person or persons who significantly contributed to the development of the community, County or State.
- (4) Its embodiment of distinguishing characteristics of an architectural and/or landscape style valuable for the study of a period, type, method of construction or use of indigenous materials.
- (5) Its identification as the work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the community, County or State.
- (6) Its overall embodiment of elements of design, detailing, materials, craftsmanship which renders it architecturally significant;
- (7) Its overall embodiment of design elements that make it structurally or architecturally innovative.
- (8) Its unique location or singular physical characteristic that makes it an established or familiar visual feature.
- (9) Its character as a particularly fine or unique example of a utilitarian structure or group of such structures including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance; and/or
- (10) Its recognition as a neighborhood, commercial area or public activity center characterized by solid housing or commercial buildings, which are not necessarily significant or homogeneous in architectural design, and whose

properties and structures are threatened by deterioration, demolition or disharmonious alteration.

Any structure, property or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration. If a nomination is found to meet the above criteria, it shall proceed to the preliminary conference phase. If a nomination does not meet the above criteria, the Committee shall deny the application and notify the applicant within **seven (7) days** of the preliminary determination of the reasons for the denial.

(D) **Preliminary Conference.** Within **seven (7) days** following a preliminary determination that nomination meets one or more of the criteria in paragraph (C) herein, the Committee shall notify the applicant and schedule a meeting with the Committee, the applicant and the property owners within the proposed boundaries, for the purpose of drafting design standards for the area. The design standards will be specific for the proposed designation and may vary depending on the character of the properties, structures, or areas within the boundaries of the proposed designation.

(E) **Required Petition.** A petition on the form proscribed by the Committee, in support of the nomination including the proposed design standards, signed by the owners of record of more than **fifty percent (50%)** of the parcels of land in the proposed area shall be submitted prior to the public hearing being scheduled before the Historic Preservation Committee. If the minimum number of signatures cannot be obtained within **sixty (60) days** from the date of the preliminary conference, the nomination shall terminate.

(F) **Public Hearing.** Within **thirty (30) days** of the filing of the petition in favor of the nomination and the conference to determine design standards, a public hearing shall be scheduled before the Historic Preservation Committee. Notice shall be given of the time, date, place and purpose of the public hearing, not more than **thirty (30)**, nor less than **fifteen (15) days** prior to the date of the hearing by publishing a notice thereof in a newspaper with general circulation in the City. The notice shall state the location and legal description of the proposed designation, and include a statement summarizing the proposed designation.

At the hearing, the Historic Preservation Committee shall take testimony from the applicant, owner(s), and any other interested parties. In addition, the Committee shall consider all written comments received by the Committee prior to the hearing date. The Committee may present expert testimony or present its own evidence on the proposed designation. The hearing shall be closed upon completion of all testimony. A record of the proceedings shall be made and retained as a public record. The Preservation Committee shall review and evaluate all of the available information according to the criteria for designation contained in paragraph (C), hereinabove. The Preservation Committee shall make findings of fact on the criteria or designation, the boundaries of the proposed designation and the design standards for the proposed designation. The recommendation will be considered by the City Council, after review and consideration by the Zoning Board of Appeals.

(G) **Regulation During Consideration Peirod.** From the date that a petition in support of the nomination and the specific design standards signed by the owners of record of more than **fifty percent (50%)** of the parcels of land in the proposed designation area is filed, until the City Council acts on the nomination, the provisions of paragraph (B) of this Section shall apply as if the property were designated as requested. Provided, however, that the interim regulations shall in no case apply to property within public rights-of-way, or if the applicant withdraws the application, or for a period of more than **ninety (90) days** after the petition bearing the required signatures of the owners of record or more than **fifty percent (50%)** of the parcels in the designation area is filed.

The City Council may authorize by formal resolution the alteration, construction or demolition of property within a proposed designation area when circumstances exist that pose an imminent threat to the health, safety and public welfare. Prior to the City Council taking action, it shall be provided with a written report from a licensed structural engineer or architect. The report shall describe the condition of the structure and identify factors which may constitute an imminent threat to the public health and safety.

40-9-10 AMENDING OR RESCINDING DESIGNATIONS.

(A) **Amending Design Standards.** The Committee shall be presented with a written statement setting forth the reasons for the proposed amendments to the design standards. The committee

shall review the proposed amendments and make its recommendation to the City Council and the Zoning Board of Appeals. During the consideration period, the amendments shall not apply and the existing design standards for the designated district shall remain in effect.

(B) **Amending a Designated District's Boundaries by the Addition of Property or Area.** An amendment to a designated district's boundaries shall be considered by the Committee to determine if the criteria considered for the original designation is present for the property or structures proposed to be added. The design standards for the proposed addition shall be identical to the design standards for the original district. The recommendation of the Committee shall include a statement as the similarity to and compatibility with the criteria for designation found to be present for the designated district to which it is applying to be added.

40-9-11 DESIGN STANDARDS. The design standards for the regulation of alterations, construction and demolition in a designated historic or preservation district shall include the following:

(A) **Height.** The height of the proposed structure or additions or alterations should be compatible with surrounding structures.

(B) **Proportions.** The proportion of the structure's front façade should be compatible with nearby structures.

(C) **Proportions of Openings into the Facility.** The proportions and relationships between doors and windows should be compatible with existing structures.

(D) **Relationship of Building Mass and Space.** The relationship of a structure to the open space between it and adjoining structures should be compatible.

(E) **Roof Shapes.** The design of the roof should be compatible with adjoining structures.

(F) **Landscape and Appurtenances.** Landscaping and the use of appurtenances should be sensitive to the individual structures, its occupants, and their needs. Further, the landscape treatment shall be compatible with surrounding structures and landscapes.

(G) **Scale of Structure.** The scale of the structure should be compatible with surrounding structures.

(H) **Directional Expression of Front Elevation.** Street facades should blend with other structures with respect to directional expression, when adjacent structures have a dominant horizontal or vertical expression, this should be carried on and reflected.

(I) **Architectural Details.** Architectural details and materials should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of that area.

Specific standards for each preservation district shall be based upon any or all of the guidelines contained in paragraph (E)(1) herein, and any other guidelines deemed appropriate by the City Council. Design standards for each preservation district shall be included in the ordinance establishing the district.

40-9-12 REGULATION OF ALTERATIONS, CONSTRUCTION AND DEMOLITION.

(A) **Certificate of Appropriateness.** Any alteration, construction or demolition work on property within a designated preservation district, that is subject to the design standards for the district in which it is located, shall be issued a certificate of appropriateness by the Preservation Committee prior to the work commencing. No building permit shall issue until the certificate of appropriateness has been issued to the applicant, who shall be the property owner or the owner's agent. A certificate of appropriateness shall be valid for a period of **one (1) year** from the date of issuance.

(B) An application for a certificate of appropriateness shall be filed with the Preservation Committee and reviewed by the Committee within **thirty (30) days** of receipt. In reviewing the application, the Committee shall determine if the proposed work is in accord with the design standards established for the district in which the property is located. The Committee shall either approve the application as submitted, approve the application with modifications, deny the application or table the application. If the applicant does not agree with the Committee's decision to modify an application, the application shall be denied.

The Committee can table an application to a subsequent meeting which shall be held within **thirty (30) days**, and provide notice of the date of the meeting to the appropriate property owners.

Written notice of the Committee's action shall be provided to the applicant within **seven (7) days** following the Commission's determination and shall be accompanied by a certificate of appropriateness in the case of an approval. A denial of the application shall be accompanied by a statement of the reasons for the denial that shall include recommendations concerning amendments to the application that would result in a reconsideration of the denial.

(C) **Appeal of Denied Application.** An applicant whose application for a certificate of appropriateness is denied may appeal the Committee's decision in writing to the City Council. The City Council will consider the appeal within **thirty (30) days** of receiving the appeal. The Council may affirm or modify the decision after consideration of the facts. The Council decision shall be based solely on a determination whether the proposed work is in accord with the design standards established for the district in which the property is located. If the City Council concurs with the decision of the Preservation Committee, the decision shall be final.

40-9-13 CERTIFICATE OF ECONOMIC HARDSHIP. An applicant whose application for a certificate of appropriateness has been denied may apply for a certificate of economic hardship within **thirty (30) days** of the denial. An application for a certificate of economic hardship shall include the information on the proposed work contained in the denied application for a certificate of appropriateness. The Historic Preservation Committee shall schedule a public hearing on the application for a certificate of economic hardship and provide notice in the same manner as for a certificate of appropriateness.

The applicant for a certificate of economic hardship shall present the following information to the Committee prior to the date of the public hearing:

(A) Estimate of cost of the proposed alteration, construction or demolition and an estimate of any additional cost that would be incurred to comply with the recommendations of the Preservation Committee for changes necessary for the approval of a certificate of appropriateness.

(B) Reports from professionals with experience in rehabilitation as to the structural soundness of the structure and its suitability for rehabilitation, and if applicable, the economic feasibility of rehabilitation or other use of the structure.

(C) Estimated market value of the property in its current condition and after completion of the proposed work, including any appraisals obtained by the applicant or owner in connection with the purchase, financing or ownership of the property.

(D) If the property is income producing, the annual gross income of the property for the previous **two (2) years**, maintenance and operating expense for **two (2) years**, and depreciation deduction an annual cash flow before and after debt service, if any, during the same period.

(E) Any other information which the Committee considers necessary to determine if the property owner will experience economic hardship by not being issued a certificate of appropriateness for work specified in the application.

(F) Any plans or other considerations of the owner as to alternative uses of the property or alternative alterations, construction or scope of demolition work.

The Historic Preservation Committee shall within **fifteen (15) days** of the completion of the public hearing deny the application, or delay final action for a period not to exceed **thirty (30) days** to investigate possible alternative plans for the property. If the application is denied, the applicant may appeal the decision to the City Council, which will consider the appeal within **thirty (30) days** of its receipt. The City Council shall either affirm the Committee's decision or send or refer the application to the Preservation Committee for the investigation of possible alternatives.

40-9-14 MAINTENANCE AND SAFETY. Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any interior or exterior architectural feature on a landmark or an historic or preservation site which does not involve a change in design, material, or the visual appearance thereof, nor to prevent any alteration or demolition which may be required to protect public safety.

40-9-15 **ZONING.** Whenever an application for a zoning map amendment, variation or special use is submitted to the Zoning Board of Appeals for property which has been designated as a landmark, or for property located in an historic or preservation district, then the notice of the public hearing scheduled by the Zoning Board of Appeals shall be forwarded to the Preservation Advisory Committee.

Whenever an application for nomination of a landmark, or an historic preservation district, is approved by the Historic Preservation Committee, with accompanying design standards, a copy of the approval and design standards shall be provided to the Zoning Board of Appeals.

ARTICLE X - RESERVED

ARTICLE XI – SUPPLEMENTAL REGULATIONS

DIVISION I - GENERALLY

40-11-1 PERMITTED USE. Whenever a use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the Zoning Administrator determines that the proposed use is similar to and compatible with the listed uses, and following consultation and approval of the Zoning Board of Appeals, the Zoning Administrator may determine that the use is permitted within the zoning district. The Administrator’s decision, upon concurrence with the Board of Appeals, shall become public record, and any unlisted uses that it approves shall thereafter have the same status as listed uses.

40-11-2 ACCESSORY BUILDINGS. Accessory buildings shall be located on the same lot as the primary structure. In the event a property owner desires to construct an accessory building on a lot adjacent to the primary residence of the property owner, or on any lot other than where the primary structure is located, a request shall be made to the Zoning Board of Appeals. No building permit shall be issued until there has been a public hearing before the Board and the Zoning Board of Appeals has approved the construction plans. **(Ord. No. 54-2005; 11-28-05)**

40-11-3 MAXIMUM HEIGHT OF BUILDING – SPECIAL EXCEPTIONS. The height limitations of this Chapter shall not apply to church spires, belfries, cupolas, penthouses, or domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, silos, antennas, or necessary mechanical appurtenances usually carried above roof level.

40-11-4 BUILDINGS; ONE PRINCIPAL BUILDING PER LOT. No part of an area or frontage or yard required for any lot, building, or use for the purpose of complying with the provisions of this Code shall be included as an area, frontage, or yard for another lot, building or use. Except as otherwise provided in this Chapter, only one principal single family residential building shall be permitted on a lot.

40-11-5 BUILDINGS; EMERGENCY AND TEMPORARY OCCUPANCY OF STRUCTURES. No temporary structure, including travel trailers or homes, shall be used or occupied for any residential, commercial, institutional or industrial use. However, the City may in emergency situations permit the use of such temporary structure for such reasonable time And subject to the conditions as the City deems to be compatible with the character of the area in which the structure is located, and in compliance with requirements of the general health, safety and welfare.

40-11-6 LOTS; CORNER AND THROUGH LOTS. Pertaining to principal buildings, both yards abutting a street shall comply with the front yard requirement of the district in which it is located.

40-11-7 LOTS RECORDED AFTER THE ADOPTION OF THIS CHAPTER. No parcel of land described by metes and bounds or any lot shall hereinafter be created which does not conform with and meet the requirements of this Chapter and other applicable ordinance of the City.

40-11-8 YARD. No legally required yard, court, or other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, court, other open space, or minimum lot area requirements for any other building.

40-11-9 YARDS; EXCEPTIONS. Subject to the requirements that there be a minimum distance of **fifteen (15) feet** between any point on a principal building and any point on any principal building on an adjacent lot, the following exceptions shall apply:

- (A) Chimneys, planters, or other similar architectural features may extend **two (2) feet** into the required yard.
- (B) Open, unenclosed, porches at ground level may extend into a required yard not more than **six (6) feet**.
- (C) Fire escapes may extend into a required yard no more than **four (4) feet**.
- (D) Patios extending into required yards may be covered by a roof, but shall not be enclosed by walls. Such covered patios shall extend no more than **ten (10) feet** into the required rear yard.
- (E) Eaves, balconies, roof overhangs or other similar features not included in the foregoing parts of this Section may extend into a required yard not more than **four (4) feet**.

40-11-10 YARDS; LOCATION OF REQUIRED OPEN SPACE. All yards, courts, and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building.

40-11-11 YARDS; REQUIRED FOR EXISTING BUILDINGS. No yards now or hereafter provided for a building on the effective date of this Code shall subsequently be reduced below, or further reduced below, if already less than the minimum yard requirements set forth in this Chapter, for equivalent construction.

40-11-12 LIGHTING CONTROLS. Any light used for the illumination of signs, parking areas, swimming pools, or for any other purpose shall be arranged in such a manner as to direct the light away from neighboring residential properties and away from the vision of passing motorists.

40-11-13 CHURCHES AND PLACES OF WORSHIP. Each principal building shall be located at least **twenty-five (25) feet** from all property lines or shall meet the zoning district yard setback requirements, whichever is greater.

40-11-14 FENCES, WALLS AND HEDGES. Fences, walls, or hedges used for any purpose shall in all districts conform to the following:

- (A) For the purpose of minimizing traffic hazards at street intersections by improving visibility of converging vehicles, obstructions higher than **two (2) feet** above the adjacent top of the curb or street elevation, whichever is higher, shall not be permitted to be planted, placed or erected on any corner lot. A triangular space shall be maintained on a corner lot, free from any kind of obstruction.
- (B) No barbed wire or other such sharp pointed fence and no electrically charged fence shall be erected or maintained except in agriculture districts.
- (C) Fences and temporary structures (including planters, flower beds), constructed or erected within any public easement or right-of-way must be authorized by the governing authority on a case by case basis, and if not authorized, shall be removed.
- (D) Fences located in the required front yard setback shall not be greater than **four (4) feet** in height.
- (E) Fences not in the required front yard setback area shall not be greater than **six (6) feet** in height.

40-11-15 GASOLINE SERVICE STATIONS. In districts where gasoline service stations are permitted, the establishment of such uses shall be subject to the following requirements:

- (A) All gasoline pumps, lubrication, or similar devices and other service facilities shall be located at least **twenty (20) feet** from any street right-of-way.
- (B) All fuel and oil storage, and all pumps or other such fuel or lubricant dispensing devices, shall be located at least **twenty (20) feet** from any side or rear yard.
- (C) No access drive shall be within **four hundred (400) feet** of a fire station, school, public library, church or playground.
- (D) All devices for dispensing or selling of milk, ice, cold drinks and the like shall be located within the principal building.
- (E) Whenever a gasoline station has been abandoned, all underground storage tanks shall be removed or filled with sand in accord with the Illinois Environmental Protection Agency standards. A gasoline station shall be considered abandoned when the owner, tenant, or lessor has discontinued the use of the business for a period of **six (6) months**.

40-11-16 HOME OCCUPATIONS. The following requirements shall apply to all home occupations:

- (A) Such use shall be conducted entirely within a dwelling and carried on by not more than **two (2)** individuals, at least one of whom is the occupant of the premises.
- (B) Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the residential character thereof.
- (C) There shall be no advertising, display or other indications of a home occupation on the premises except as provided in **Section 40-12-1** of this Chapter.
- (D) There shall not be conducted on the premises the business of selling from stocks of merchandise, supplies, or products.
- (E) There shall be no exterior storage on the premises of material used in the home occupation nor of any combustible materials.
- (F) There shall be no offensive or disturbing noise, vibration, smoke, dust, heat or glare noticeable at or beyond the property line.
- (G) A home occupation shall provide additional off-street parking reasonably adequate to accommodate needs created by the home occupation of not less than **two (2)** additional parking spaces, in addition to the space required for the dwelling. Such parking shall be provided on the same lot as the home occupation.
- (H) A home occupation shall not be located in any garage, storage building or accessory building.
- (I) A home occupation shall not include the following: clinic, mortuary, nursing home, tea room, tourist home, antique shop, animal hospital, restaurant, or use similar to any of the foregoing excluded uses.

40-11-17 JUNK YARDS. In any district where junk yards are permitted, the establishment and/or maintenance of such uses shall be subject to the following:

- (A) All storage of parts and equipment, and the dismantling of vehicles, shall be done within a completely enclosed building, or within an area enclosed by a solid fence not less than **ten (10) feet** in height.
- (B) Any junk yard shall be located not less than **five hundred (500) feet** from any residential district boundary.
- (C) Any junk yard shall meet all state licensing requirements.

40-11-18 SATELLITE INSTALLATION. Minimum guidelines for satellite installation shall be as follows:

Installation in front and side yard shall be permitted by variance only, with proper setback to be applied: **fifteen (15) feet** for the front yard and **ten (10) feet** for the side yard. Rear yard installation is permitted with **ten (10) feet** setback. The height of the satellite dish is restricted to **three (3) feet** above the highest roof top point.

40-11-19 ADULT ENTERTAINMENT REGULATIONS. Minimum requirements for adult entertainment types of businesses, i.e., bookstores, video/DVD stores, entertainment cabarets, mini-motion picture theaters, motion picture theaters, shall be permitted in accord with the following requirements:

- (A) Such use is located a minimum of **five hundred (500) feet** from a residential district, school, church, park, library, or facility used as “teen town”.
- (B) Such use is located a minimum of **five hundred (500) feet** from any other regulated use, i.e., adult entertainment, liquor establishment.

40-11-20 TRAVEL TRAILERS/RECREATIONAL VEHICLES. A travel trailer, camper, or recreational vehicle shall not be set up and used for dwelling purposes.

40-11-21 CHANGE IN USE. Any change in the use of property shall be required to be reviewed and approved by the Zoning Board of Appeals prior to the change. Such review is required although the new use may be a permitted use under the applicable zoning district regulations. **(Ord. No. 02-2004; 01-12-04)**

40-11-22 - 40-11-30 RESERVED.

DIVISION II – ADULT-USE CANNABIS

40-11-31 PURPOSE AND APPLICABILITY. It is the intent and purpose of this Division to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within the corporate limits of the City. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027) (Act), as it may be amended from time to time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Act is amended, the more restrictive of the state or local regulations shall apply. **(Ord. No. 30-2020; 08-24-20)**

40-11-32 SPECIAL USE PERMIT REQUIRED. Adult-Use Cannabis Business Establishment facilities, as defined herein, will require a special use permit in the respective districts in which they are requested and shall be processed in accordance with **Chapter 40, Article XVI, Division III** of the **Revised Code of Ordinances** and **Section 40-11-33** (Adult-Use Cannabis Facility Components) as provided herein. **(Ord. No. 30-2020; 08-24-20)**

40-11-33 ADULT-USE CANNABIS FACILITY COMPONENTS. In determining compliance with **Chapter 40, Article XVI, Division III** of the **Revised Code of Ordinances**, the following components of the Adult-Use Cannabis Facility shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

- (A) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
- (B) Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
- (C) Hours of operation and anticipated number of customers/employees.
- (D) Anticipated parking demand based on **Chapter 40, Article XII** and available private parking supply.

- (E) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
- (F) Site design, including access points and internal site circulation.
- (G) Proposed signage plan.
- (H) Compliance with all requirements provided in **Section 40-11-34** (Adult-Use Cannabis Craft Grower); **Section 40-11-35** (Adult-Use Cannabis Cultivation Center); **Section 40-11-36** (Adult-Use Cannabis Dispensing Organization); **Section 40-11-37** (Adult-Use Cannabis Infuser Organization); **Section 40-11-38** (Adult-Use Cannabis Processing Organization); or **Section 40-11-39** (Adult-Use Cannabis Transporting Organization), as applicable.
- (I) Other criteria determined to be necessary to assess compliance, with **Section 40-11-32**.
(Ord. No. 30-2020; 08-24-20)

40-11-34 ADULT-USE CANNABIS CRAFT GROWER. In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

- (A) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (B) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing property zoned or used for residential purposes.
- (C) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (D) For purposes of determining parking, Adult-Use Cannabis Craft Grower shall be classified as "Industrial" per **Chapter 40, Article XII** (Schedule of Off-Street Parking Requirements: Industrial Uses), provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-11-32** (Adult-Use Cannabis: Special Use Permit Required) herein.
- (E) Petitioner shall file an affidavit with the City affirming compliance with this Section as provided herein and all other requirements of the Act.
(Ord. No. 30-2020; 08-24-20)

40-11-35 ADULT-USE CANNABIS CULTIVATION CENTER. In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

- (A) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (B) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing property zoned or used for residential purposes.
- (C) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (D) For purposes of determining required parking, Adult-Use Cannabis Cultivation Centers shall be classified as "Industrial" per **Chapter 40, Article XII** (Schedule of Off-Street Parking Requirements: Industrial Uses), provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-11-32** (Adult-Use Cannabis: Special Use Permit Required) herein.
- (E) Petitioner shall file an affidavit with the City affirming compliance with this Section as provided herein and all other requirements of the Act.
(Ord. No. 30-2020; 08-24-20)

40-11-36 ADULT-USE CANNABIS DISPENSING ORGANIZATION. In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:

(A) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

(B) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned or used for residential purposes.

(C) At least **seventy-five percent (75%)** of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food for consumption on the premises other than as authorized in **Section 40-11-36(E)** below in the same tenant space.

(D) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

(E) Petitioner shall file an affidavit with the City affirming compliance with this Section as provided herein and all other requirements of the Act.

(Ord. No. 30-2020; 08-24-20)

40-11-37 ADULT-USE CANNABIS INFUSER ORGANIZATION. In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:

(A) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

(B) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned or used for residential purposes.

(C) At least **seventy-five percent (75%)** of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

(D) For purposes of determining required parking, said facilities shall be classified as "Industrial" per **Chapter 40, Article XII** (Schedule of Off-Street Parking Requirements: Retail/Industrial Uses) of the Revised Code of Ordinances, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-11-32** (Adult-Use Cannabis: Special Use Permit Required) herein.

(E) Petitioner shall file an affidavit with the City affirming compliance with this Section as provided herein and all other requirements of the Act.

(Ord. No. 30-2020; 08-24-20)

40-11-38 ADULT-USE CANNABIS PROCESSING ORGANIZATION. In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

(A) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

(B) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned or used for residential purposes.

(C) At least **seventy-five percent (75%)** of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as

authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

(D) For purposes of determining required parking, said facilities shall be classified as "Industrial" per **Chapter 40, Article XII** (Schedule of Off-Street Parking Requirements: Industrial Uses) of the **Revised Code of Ordinances**, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-11-32** (Adult-Use Cannabis: Special Use Permit Required) herein.

(E) Petitioner shall file an affidavit with the City affirming compliance with this Section as provided herein and all other requirements of the Act.

(Ord. No. 30-2020; 08-24-20)

40-11-39 ADULT-USE CANNABIS TRANSPORTING ORGANIZATION. In those zoning districts in which an Adult-Use Cannabis Transporting Organization may be located, the proposed facility must comply with the following:

(A) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

(B) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned or used for residential purposes.

(C) The transporting organization shall be the sole use of the tenant space in which it is located. Facilities may not conduct any sales or distribution of cannabis other than as authorized by the Act.

(D) For purposes of determining required parking, said facilities shall be classified as "Industrial" per **Chapter 40, Article XII** (Schedule of Off-Street Parking Requirements: Industrial) of the **Revised Code of Ordinances**, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-11-32** (Adult-Use Cannabis: Special Use Permit Required) herein.

(E) Petitioner shall file an affidavit with the City affirming compliance with this Section as provided herein and all other requirements of the Act.

(Ord. No. 30-2020; 08-24-20)

40-11-40 ADDITIONAL REQUIREMENTS. Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the conditional use permit, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Act. **(Ord. No. 30-2020; 08-24-20)**

40-11-41 CO-LOCATION OF CANNABIS BUSINESS ESTABLISHMENTS. The City may approve the co-location of an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower Center or an Adult-Use Cannabis Infuser Organization, or both, subject to the provisions of the Act and the Conditional Use criteria within the Revised Code. In a co-location, the floor space requirements of **Section 40-11-36(C)** and **40-11-37(C)** shall not apply, but the co-located establishments shall be the sole use of the tenant space. **(Ord. No. 30-2020; 08-24-20)**

ARTICLE XII - OFF-STREET PARKING AND LOADING REQUIREMENTS

40-12-1 **PURPOSE.** The purpose of this Article is to alleviate or prevent congestion of the public streets, and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading and unloading of motor vehicles in accord with the use of the specific property.

40-12-2 **SCOPE AND REGULATIONS.** The off-street parking and loading provisions of this Chapter shall apply as follows:

(A) For all buildings and structures erected and all land uses established after the effective date of this Chapter, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of this Chapter, and provided that construction is begun within **one (1) year** of such effective date and diligently completed, parking and loading facilities as required hereinafter need not be provided.

(B) When the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, or other units of measurement specified herein for required parking and loading facilities as required herein shall be provided for such increase in intensity of use.

(C) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said building or structure was erected prior to the effective date of this Code, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions of this Chapter.

40-12-3 **EXISTING PARKING AND LOADING FACILITIES.** Accessory off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the effective date of this Code or were provided voluntarily after such effective date shall not hereafter be reduced below, or if already less than required, shall not further be reduced below the requirements of this Chapter for a similar new building or use.

40-12-4 **DAMAGE OR DESTRUCTION.** For any conforming building or use which is in existence on the effective date of this Chapter, which subsequent thereto is damaged or destroyed by fire, collapse, explosion, or other cause, and which is reconstructed, reestablished, or repaired, off-street parking or loading facilities need not be provided, except that parking or loading facilities equivalent to any maintained at the time such damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Chapter for equivalent new uses or construction.

40-12-5 **CONTROL OF OFF-SITE PARKING FACILITIES.** When required parking facilities are provided on land other than the zoning lot on which the building or use served by such facilities is located, they shall be and remain in the same possession or ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory. Off-site parking facilities other than on the same zoning lot shall be reviewed by the Zoning Board of Appeals and findings made that the common ownership or possession of the zoning lot and the site of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use of building.

40-12-6 SIZE AND ACCESS. The requirements for parking and loading facilities are as follows:

(A) Every parking space, designed for **one (1) vehicle** shall conform to the requirements below, and shall be designated by markings which clearly delineate each space, and which are laid and restored as often as necessary to maintain such delineation:

Minimum Parking Space Width

1.	90 degree parking	10 feet
2.	60 degree parking	10 feet
3.	parallel parking	8 feet
4.	handicapped parking	16 feet

Minimum Parking Space Length

1.	90 degree parking	18 feet
2.	60 degree parking	18 feet
3.	parallel parking	20 feet
4.	handicapped parking	20 feet

Minimum Aisle Space

1.	90 degree parking	22 feet
2.	60 degree parking	20 feet
3.	parallel parking	22 feet

(B) Access to off-street parking areas in all residential "R" zoning districts shall be minimum of **ten (10) feet** wide except as follows:

- (1) If a driveway is longer than **one hundred (100) feet** or serves more than the required parking for **four (4)** dwelling units, the minimum width shall be **twenty (20) feet**.
- (2) **Two (2)** driveways each **ten (10) feet** wide may be provided in lieu of **one (1) twenty (20) foot** driveway, provided that a minimum distance of **twenty-two (22) feet** is maintained between the driveways at the top of the slope of driveway aprons.

(C) Access to off-street parking areas in all commercial and industrial zones shall be not less than **twenty-four (24) feet** nor more than **thirty-six (36) feet** wide. Access points to public rights of way shall not exceed **one (1)** per **one hundred fifty (150) feet** of frontage up to a maximum of **four (4)** per zoning lot. Access points shall not be less than **fifty (50) feet** apart.

(D) **Handicapped Parking Spaces.**

<u>Total Parking Spaces Provided</u>	<u>Required Minimum No. of Accessible Space</u>
6 to 20	1
21 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9

40-12-7 **INGRESS AND EGRESS.** All parking areas in any multiple family, business, industrial or similar use shall be designed or arranged as that no vehicle can have direct access to or egress from any off-street parking space from a public right-of-way. In any instance stated in this Section, ingress to and egress from a parking space shall be from an aisle, driveway, or similar arrangement, by forward motion of the vehicle.

40-12-8 **USE OF PARKING FACILITIES.** Off-street facilities accessory to residential use in accord with the requirements of this Section shall be used solely for the parking of residentially related vehicles. Tractor trailer trucks and similar vehicles are prohibited in residential districts.

40-12-9 **JOINT PARKING FACILITIES.** Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

40-12-10 **COMPUTATION.** When determination of the number of off-street parking spaces required by this Chapter results in a requirement of a fractional space, any fraction of **one-half (1/2)** or less may be disregarded, while a fraction in excess of **one-half (1/2)** shall be counted as **one (1)** parking space.

40-12-11 **PARKING AREAS IN YARDS.** Off-street parking spaces in a residential district may be located in any yard, except front yard grass area. Open off-street parking spaces in a residential district, exclusive of driveway areas of not more than **twenty-four (24) feet** in width, shall not cover an area in excess of **four (4) spaces** of the gross lot area.

40-12-12 **DESIGN AND MAINTENANCE.**

(A) **Open and Enclosed Parking Spaces.** Accessory parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed in a building. Accessory parking spaces located in a residential district elsewhere than on the same lot occupies by the use served may be open to the sky or enclosed in a building.

(B) **Surfacing.** Open off-street parking areas shall be improved with a compacted gravel base not less than **four (4) inches** thick and surfaced with one of the following:

- (1) **Three (3) inches** of asphalt,
- (2) **Four (4) inches** of concrete;

or in agriculture and residential districts only, oil and chip. All off-street parking areas must be constructed and completed within **sixty (60) days** of first occupancy on the lot. This requirement for surfacing shall apply to areas for inventory display of new and used cars, boat sales, motorcycles, camping trailers, RVs, and similar inventory.

(C) **Screening.** In any zoning district, other than agriculture and residential, all open off-street parking areas containing more than **eight (8) parking spaces** and driveways thereto shall be effectively screened on each side which adjoins a residential district by a wall, fence or densely planted compact hedge not less than **five (5) feet** in height. Any such screening shall be maintained and replaced promptly as necessary to maintain acceptable visual screening.

(D) **Signs.** Directional signs are permitted on parking areas subject to an aggregate total of **ten (10) square feet**. Such directional signs shall be excluded from computations of total surface sign area.

40-12-13 LOCATION OF ACCESSORY OFF-STREET PARKING FACILITIES. The location street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances shall be walking distances between such parking spaces and a main entrance to the use served.

(A) **Uses in Residential Districts.** Parking spaces accessory to dwellings shall be located on the same lot as the principal use served. Spaces accessory to uses other than dwellings may be located on the lot adjacent to or across the street or alley which abuts the lot occupied by the use served, but in no case at a distance in excess of **three hundred (300) feet** from such use.

(B) **Uses in Business Districts.** All required parking spaces shall be within **one thousand (1,000) feet** of the use served, except that spaces accessory to dwelling units shall be within **three hundred (300) feet** of the use served. However, no parking spaces accessory to a use in a business district shall be located in a residential district.

(C) If any building, structure or use is enlarged or altered, the owner of such use shall provide additional off-street parking and loading facilities, as required by the provisions of this Article.

(D) If the existing use of a lot, building or structure is changed to a different use, the owner of such use shall provide off-street parking and loading facilities as required by the provisions of this Section.

(E) No access way to any parking lot shall be located within **forty (40) feet** of any corner formed by the intersections of the right-of-way of **two (2)** or more streets, provided however, that when such an intersection is regulated by traffic control devices, the Zoning Administrator may increase the requirement in order to reduce traffic hazards.

(F) Curb cut permits for the purpose of providing ingress or egress are subject to all applicable state, county and city requirements and approvals.

40-12-14 SCHEDULE OF PARKING REQUIREMENTS. For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing or both on the premises at any one time.

(A) Residential Uses	No. of Parking Spaces
Apartment hotels	Two (2) for each dwelling unit
Boarding/rooming houses	One (1) for each dwelling unit or room; one for each manager/employee
Motels	One (1) for each dwelling unit or room
Multiple family dwelling	Two (2) for each dwelling unit
One family dwelling	Two (2) for each dwelling unit
Two family dwelling	Two (2) for each dwelling unit
(B) Retail and Services Uses	No. of Parking Space
Automobile car wash	Five (5) stacking spaces shall be provided for each wash rack, plus one (1) parking space for each one and one-half (1 1/2) employee
Service stations	One (1) parking space for each one and one-half (1 1/2) employees

(B) **Retail and Services Uses**

No. of Parking Space

Bowling alleys

Four (4) parking spaces shall be provided for each alley, plus such additional spaces as may be required herein for affiliated uses, bars, restaurants, etc.

Self service laundries

One (1) parking space for every two (2) washing machines

Drive-in restaurants

Minimum of ten (10) spaces

Restaurants

One (1) parking space for each five (5) seats, or for each sixty-five (65) square feet of floor area used for the assembly or seating purposes, whichever gives the greater number of spaces

Furniture and appliance stores, repair stores

One (1) parking space for each six hundred (600) square feet of floor area

Motor vehicle sales

One (1) parking space shall be provided for each three hundred (300) square feet of floor area

Municipal or privately owned recreation Building or community centers

Parking spaces as determined by the Zoning Board of Appeals to serve the public

Retail stores and banks

One (1) parking space shall be provided for each five hundred (500) square feet of floor area; drive through facilities shall provide four (4) stacking spaces per teller or service window

Theaters

One (1) parking space for each five (5) seats

Funeral parlors/mortuaries

Two (2) parking spaces shall be provided for every three (3) seats in the chapel or parlor, plus one (1) parking space for each employee

(C) **Office Uses**

No. of Parking Spaces Required

Business/professional/administrative/governmental

One (1) parking space shall be provided for each three hundred (300) square feet of floor area

(D)	<u>Industrial Uses</u>	<u>No. of Parking Spaces Required</u> Parking or storage space for all vehicles used directly in the conduct of such industrial use, plus one (1) parking space for every three (3) employees
(E)	<u>Hospitals</u>	<u>No. of Parking Spaces Required</u> One (1) parking space for every two (2) beds intended for patients, plus one (1) parking space for every three (3) employees, plus one (1) space for every hospital vehicle
(F)	<u>Schools</u>	<u>No. of Parking Spaces Required</u> One (1) parking space for every eight (8) seats available in the auditorium, assembly hall or gymnasium, plus one (1) for each employee

40-12-15 OFF-STREET LOADING.

(A) **Location.** All permitted or required loading berths shall be located on the same zoning lots as the use served and shall not be located within **twenty-five (25) feet** of the intersection of any **two (2) streets**. Loading berths for vehicles over **two (2) ton** capacity shall not be closer than **fifty (50) feet** to any property in a residential district unless completely enclosed by building walls, or a solid fence or all not less than **six (6) feet** in height.

(B) **Size.** Unless otherwise specified, a required loading berth shall be at least **ten (10) feet** in width by at least **twenty-five (25) feet** in length exclusive of aisle and maneuvering space, and shall have vertical clearance of at least **fourteen (14) feet**.

(C) **Access.** Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street, or alley, in a manner which will least interfere with traffic movements.

(D) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel base, not less than **six (6) inches** thick, surfaced with not less than **four (4) inches** of concrete or asphalt (in two (2) lifts each, **two (2) inches** thick).

(E) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential or business district.

(F) **Not For Parking.** Space allocated to any off-street loading berth shall not while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(G) **Special Use.** For special uses other than provided hereinafter, loading berths, adequate in number and size to serve such use as will be determined by the Zoning Board of Appeals.

(H) **Below Minimum Floor Area.** Uses for which off-street loading facilities are required herein but which are located in buildings of less floor area than the minimum shall be provided with adequate receiving facilities.

40-12-16 SCHEDULE OF LOADING REQUIREMENTS. For the uses listed in the following table, off-street loading berths shall be provided on the basis of gross floor area of building or portions thereof devoted to such uses in the amounts shown herein.

**Total Square Feet of Gross
Floor Area Per Building**

Loading Spaces Required

Commercial and Industrial Buildings

3,000 to 20,000	1
20,000 to 50,000	2
50,000 and over	3

Hospitals/Institutions/Offices

10,000 to 50,000	1
50,000 and over	2

40-12-17 OTHER USES. For uses not listed herein, loading berths adequate in number and size to serve such uses shall be determined by the Zoning Board of Appeals, upon recommendation of the Zoning Administrator.

40-12-18 LANDSCAPING. In order to reduce heat and glare, to minimize blowing of dust and trash, and to reduce the oppressive visual effects of large open parking areas, landscaping shall be provided and maintained within every parking lot that contains **fifteen (15)** or more parking spaces. A minimum of **five percent (5%)** of the total parking lot area shall be set aside for landscaping. In meeting the landscaping requirement, any landscaped area surrounding the parking lot shall not be used to meet the **five percent (5%)** requirement.

(A) A landscaping plan (either a separate document or an element of a more inclusive development plan) shall accompany every application for an initial certificate of zoning compliance to develop any parking lot that will contain **fifteen (15)** or more spaces, or the site plan.

(B) The landscaping plan shall include the following information:

- (1) Proposed type, amount, size, and spacing of plantings, including trees, shrubbery, and ground cover;
- (2) Proposed size, construction materials, and drainage of landscaped islands or planting beds; and
- (3) A sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation, and pedestrian movement.

ARTICLE XIII - SIGNS

40-13-1 PURPOSE. This Article shall be known and cited as the "Sign Code". The sign regulations set forth in this Article are adopted in accord with an overall plan and program for the public safety, area development, preservation of property values, and general welfare of the City of Herrin. The intent is to safeguard the general welfare of the property owner, to preserve and protect the beauty of the community while balancing the growth, development and commercial pursuits. In establishing the standards, the following findings are made:

(A) A multiplicity of signs is distracting to motorists and a hazard to vehicular and pedestrian traffic.

(B) A proliferation of off-premise commercial signs obscure the legitimate effort of local business establishments to reasonably identify the location and nature of their businesses.

(C) It is a legitimate public purpose to limit commercial signs in the City to those reasonably necessary to identify local businesses. Such restrictions are established for the following purposes:

- (1) Limit distraction to motorists and reduce the danger to vehicular traffic and pedestrians.
- (2) Control and abate the unsightly use of buildings and land and enhance the appearance of the landscape.
- (3) Preserve the beauty of the landscape and residential and commercial architecture.

(D) It is necessary for the promotion and preservation of the public health, safety and welfare of the City that the size, type, placement, construction, location and maintenance of all signs be regulated and controlled so as to assure that all signs are:

- (1) Compatible with the surroundings, and
- (2) Appropriate to the type of activity to which they pertain.

40-13-2 SIGNS. No sign shall be installed, altered, enlarged, or replaced within the City of Herrin until a sign permit has been issued by the Zoning Administrator. A drawing of the sign, which shows its proposed location and size shall be submitted to the Code Inspector, along with a fee of **Fifty Dollars (\$50.00)**. (Ord. No. 40-2003; 08-25-03)

(A) Sign regulations set forth herein shall not apply to governmental signs including traffic signs which are installed and intended for public information, direction, safety or control purposes, and no sign shall interfere in any manner with the signs installed by public entities for traffic control.

(B) Flashing, moving or electronic message signs shall only be permitted in the B-2 district.

(C) Signs shall not extend into a public right-of-way.

(D) Roof signs shall not be permitted in any district except by special use permit.

(E) Illuminated signs shall not be permitted nearer than **one hundred (100) feet** of any residential zoning district, except by special use.

(F) The maximum total surface area of all business signs shall be **one (1) square foot** of sign area for each linear foot of front width of business building, provided that the total surface area of all signs shall not exceed **two hundred (200) square feet** on any business.

(G) Freestanding signs shall not exceed **twenty (20) feet** in height from ground level or **twenty (20) feet** in height above the grade level of the traveled way to which the sign is oriented. A freestanding sign shall not exceed **one hundred (100) square feet** of sign area or exceed **twelve (12) feet** in length or width.

(H) In determining the height of any sign above grade level, it shall be measured on the shortest line perpendicular with the top of the sign and grade level.

(I) In subdivisions, non-illuminated subdivision signs may be installed subject to the following requirements:

- (1) No more than **one (1) sign** at each access point shall be permitted for any subdivision.

- (2) The total sign area of any subdivision sign shall not exceed **thirty-two (32) square feet**.
- (3) When a permanent stone subdivision sign has been installed, no other signs will be permitted at that access point of the subdivision.
- (4) No subdivision signs shall be placed upon any public property or easements.
- (J) In any zoning district where a Planned Unit Development exists, only **one (1)** freestanding sign shall be permitted at each major access point of the development, to identify the development.
- (K) In any residential district where home occupations are permitted, only **one (1) sign of one (1) square foot** shall be permitted for purposes of identifying the occupation.
- (L) In any business district, a freestanding sign of not more than **one hundred (100) square feet** shall be permitted subject to **Section 40-13-1(H)**.
- (M) **One (1)** temporary sign, per business site, may be permitted for a period not to exceed **fourteen (14) days** and shall not exceed **thirty-two (32) feet** of sign area. Time extensions may be granted by the Board of Appeals.
- (N) Only **one (1) side** of any double facing sign shall be considered in the total sign area permitted for any business, building, use or lot, provided the same message appears on both sides of the sign.
- (O) "For Sale" signs in any Residential district shall not exceed **six (6) square feet** in area and in any Business district or Industrial district shall not exceed **thirty-two (32) square feet** in area.
- (P) A business center – as an entity – may install a monument sign in accord with the provisions of this Code if (1) the Center is a minimum of **three (3) acres** in size, then a sign of up to **fifty (50) feet** in area may be permitted, or (2) the Center is over **seven (7) acres** in size then a sign of up to **one hundred (100) square feet** in area may be permitted. A monument sign will not be calculated to total surface sign area.
- (Q) Bed and breakfast establishment shall be limited to **one (1) sign** not to exceed **nine (9) square feet** in area.
- (R) No sign shall be placed on any public right-of-way or easement, except with express permission of the Zoning Administrator, or the Illinois Department of Transportation, if applicable.

40-13-3 BILLBOARDS. All billboards hereafter constructed, erected, painted, or otherwise established, moved, altered, or changed within the City's limits of jurisdiction shall comply with the following regulations:

- (A) **Size.** No billboard may be erected which exceeds **one hundred (100) square feet** in area including border and trim, but excluding ornamental base or apron, supports and other structural members. The length or width of any billboard shall not be greater than **twelve (12) feet**. Double-faced signs, and back-to-back signs within **two (2) feet** of each other and V-type signs shall be considered as **one (1) sign**.
- (B) **Lighting.**
 - (1) No billboard shall have any blinking, flashing, or rotating lights or any other device which attracts attention by visual means through the movement or the semblance of movement, except those giving public service information such as, without limiting the generality of the foregoing, time, weather, date and temperature.
 - (2) No sign shall be erected or maintained which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway or which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle.
- (C) **Spacing.**
 - (1) No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official sign, signal or

device; or obstruct, or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic.

- (2) No **two (2)** billboards on the same side of a street or highway shall be erected less than **one thousand (1,000) feet** apart.

(D) **Location of Billboards.** Billboards (other than temporary billboard signs) may be permitted by special use permit in the General Industrial Zoning District, Agriculture District and Business-2 District, provided they are not located in the following areas:

- (1) Within **one hundred (100) feet** of any property in any Residential district;
- (2) In the required setback area of any zoning district;
- (3) Where it would block the view of any on-site advertising sign(s) which advertise the business(es) on the adjacent property(ies).

(E) **Height.** No part of any billboard shall exceed **twenty (20) feet** in height above the ground level of the traveled way. Any billboard shall not extend more than **five (5) feet** above the parapet, eaves or building façade of the building to which it is attached.

(F) **Temporary Billboards.**

- (1) **Auction/Garage Sale.** Signs commonly regarded as "garage sale" or "yard sale" signs shall be permitted only on private property and shall be restricted to a maximum area of **four (4) square feet**. The sign shall be dated when posted and must be removed within **five (5) days** after posting. **One (1)** auction directional sign measuring not more than **four (4) square feet** may be placed on private property abutting the nearest high volume traffic street on the day before the auction and the day of the auction only.
- (2) **Political Campaign. One (1) sign** per lot up to **thirty-two (32) square feet** on non-residential property may be permitted announcing candidates for public office. In residential and agricultural districts, **one (1)** political campaign sign of up to **sixteen (16) square feet** may be permitted. Such political campaign signs must be removed within **five (5) days** after the election to which they relate.
- (3) **Public Interest.** Other signs publicizing a charitable or non-profit event of general public interest may be permitted only on private property and shall be restricted to a maximum area of **four (4) square feet** in agricultural and residential zoned district and **sixteen (16) square feet** in business or industrial zoned districts. Such signs shall be permitted for not more than **fourteen (14) days** immediately preceding the event and must be removed within **two (2) days** after the event.
- (4) **Other Signs.** Signs not otherwise identified in this Code but which are temporary in nature, such as grand opening or sale signs shall be classified by the Zoning Administrator and shall be governed by the provisions and requirements of this Code most similar to the sign for which a permit is requested.

(G) **Owner's Name.** There shall be placed and maintained on the vertical surface of each billboard or outdoor advertising sign the name of the person or company owning, or who is in possessive charge or control of the same, for advertising purposes.

(H) **Unsafe and Unlawful Billboards.** Whenever a billboard is found to be erected or maintained in violation of any provision of this or any other ordinance or law, the Zoning Administrator shall order that such sign be altered, repaired, reconstructed, demolished or removed as may be appropriate to abate such condition. Any work required to be done shall, unless a different time is specified, be completed within **ten (10) days** of the date of such order.

40-13-4 RESIDENTIAL DISTRICT SIGNS.

(A) In all residential zoning districts, R-1 through R-4, and MHD, the following signs are permitted:

- (1) Contractor signs.
- (2) Signs accessory to parking areas.
- (3) Directions signs within a public right-of-way.
- (4) Institutional signs.
- (5) Nameplates.
- (6) Real estate signs.
- (7) Ornamental signs or entry gate signs.
- (8) Garage/yard sale signs.
- (9) Political signs.
- (10) Developer temporary signs.
- (11) Professional office signs.
- (12) Public hearing notice signs.
- (13) Home occupations signs.
- (14) Signs designating historic areas or buildings.

(B) The permitted signs identified hereinabove may be located not less than **five (5) feet** from any side lot line or less than **five (5) feet** from any lot line adjacent to a street, except as otherwise provided in this Article.

(C) Unless specifically provided otherwise in this Article, no sign shall extend **ten (10) feet** in height.

40-13-5 BUSINESS DISTRICT.

(A) The following signs are permitted in the B-1, HBD, and PA Zoning Districts:

- (1) Awning and canopies.
- (2) Freestanding signs not exceeding **twenty (20) feet**.
- (3) Wall signs.
- (4) Window promotional signs.
- (5) Temporary contractor signs.
- (6) Sign accessory to parking areas.
- (7) Directional signs within the public right-of-way.
- (8) Real estate signs.
- (9) Window displays.
- (10) Temporary external signs.
- (11) Public hearing notice signs.
- (12) Electronic message, flashing and moving signs may be permitted with a special use permit.

(B) There shall be no more than **one (1)** freestanding sign for each zoning lot, provided that lots that have frontage on **two (2)** arterial or collector streets may have **one (1)** freestanding sign on each street frontage. All signs shall be controlled by the area requirements set forth in **Section 40-13-2(G)**.

(C) The total amount of sign surface area permitted on a zoning lot shall not exceed **one (1) square foot** per front foot or lot frontage.

(D) Except for signs containing noncommercial copy, content of signs shall be limited to the business, product, or activity conducted on the zoning lot.

(E) Freestanding signs may be located within the required yard adjacent to a street, but not less than **eight (8) feet** from the lot line.

40-13-6 B-2 HIGHWAY BUSINESS DISTRICT.

(A) The following signs are permitted in the B-2 (Highway Business District):

- (1) Signs permitted in the B-1 district.
- (2) Marquees.
- (3) Temporary external signs.
- (4) Billboards with a special use granted pursuant to **Article XV** of this Chapter.

(B) There shall be a minimum of **one hundred (100) feet** of separation between freestanding signs on the same zoning lot as measured along street frontage.

(C) The total area of signs permitted on a zoning lot shall not exceed **two (2) square feet** per foot of lot frontage.

40-13-7 INDUSTRIAL ZONING DISTRICT.

(A) The following signs are permitted in the Industrial Zoning District:

- (1) Signs permitted in B-1 and B-2 Districts.

40-13-8 AGRICULTURE ZONING DISTRICT.

(A) Signs may be permitted in the Agriculture Zoning District with a Special Use.

40-13-9 NONCONFORMING SIGNS AND BILLBOARDS. A "nonconforming" sign or billboard is any sign or billboard which is lawfully erected prior to the date of enactment of this Article which does not conform to **one (1)** or more provisions of this Article.

All "nonconforming" signs and billboards shall be exempt from the requirements of this Article provided they are not:

- (A) Altered or enlarged in such a way as to increase its nonconformity.
(B) Replaced by another nonconforming sign or billboard;
(C) Relocated unless it is made to conform with this Code; or
(D) Subjected to damage in an amount exceeding **fifty percent (50%)** of their market value.

Whenever any of the above identified changes are made to a "nonconforming" sign or billboard, the sign or billboard must thereafter meet the requirements of this Article.

ARTICLE XIV – WIRELESS COMMUNICATION FACILITIES

40-14-1 PURPOSE. The purpose of this Article is to establish general guidelines for the siting of wireless communication facilities (WCF) and to encourage the orderly development of WCFs in a manner to protect and preserve the character of residential neighborhoods, to protect the public health, safety and general welfare, and to advance sound planning principles and encourage the delivery of new wireless technologies throughout the City, while regulating the proliferation of transmission towers. The objectives of the wireless communication facilities siting Regulations and Standards are as follows:

- (A) To protect residential areas from the uncontrolled development of WCFs by requiring reasonable siting conditions;
- (B) To encourage users of towers and antennas to configure them in a manner 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 other WCFs;
- (E) To encourage site sharing of existing and new WCFs;
- (F) To encourage the location WCFs onto existing structures to reduce the number of new communication towers needed within the City;
- (G) To regulate the type of tower constructed when towers are permitted;
- (H) To enhance the ability of providers or wireless communication services to provide such services to the community;
- (I) To preserve aircraft safety at the Williamson County Regional Airport;
- (J) To establish standards to address the siting of WCFs which are consistent with the requirements of the Federal Telecommunications Act of 1996, and in the best interests of the City of Herrin.

40-14-2 DEFINITIONS. The following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise.

Act: Telecommunications Act of 1996.

Affiliate: A person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

Antenna Array: One or more rods, 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 Facility: 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.

Equipment Facility: Any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals and other similar structures.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

Height: The vertical distance measured from the base of the tower to the highest point on the WCF.

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 Facility: A WCF to be placed in use for **sixty (60) days** or less.

Tower and/or Antenna Use Permit: A permit issued by the City specifically for the location, construction, use and compliance with the development standards of the City.

Wireless Communications: Any wireless service as defined in the Telecommunications Act of 1996, Title 47, United States Code, and as it may be amended, including but not limited to, facilities for the transmission and reception of radio, television, or microwave signals used for communication, cellular phone, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and any other wireless services licensed by the FCC and unlicensed wireless services.

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.

40-14-3 APPLICABILITY.

(A) **New Wireless Communication Facility.** No person shall install or construct any new WCF, unless and until a permit is issued by the City pursuant to requirements of this Article.

(B) **Pre-Existing Wireless Communication Facility.** WCFs which exist, or WCFs which have been approved for construction prior to the effective date of this Article shall not be required to meet the requirements of this Article, 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 Article and may be completed after appropriate permits are issued.

(C) **Exemptions.** The provisions of this Article do not apply to a ground or building mounted receive only radio or television antenna used for residential purposes; a ground or building mounted citizens band radio antenna; a ground, building or tower mounted antenna operated by a federally licensed amateur (ham) radio operator; and satellite dish antennas less than **one (1) meter** in diameter for residential uses; and less than **two (2) meters** in diameter for commercial or industrial uses, including direct to home satellite services, when used as an accessory use of the property. Such installations shall comply with any other applicable provisions of the Zoning Code.

40-14-4 SHARED FACILITIES AND CO-LOCATION POLICY.

All new wireless communications facilities shall be engineered, designed and constructed to be capable of sharing the facility with other applicants, to co-locate with other existing WCFs and to accommodate the future co-location of other WCFs. A tower and/or antenna use permit 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 co-location.

40-14-5 INVENTORY OF EXISTING SITES.

Upon approval of this Article, all wireless communication service providers operating in the City are required to register with the City. Registering service providers shall provide to the Code Inspector an inventory of existing WCF towers and/or antennas that are within the zoning jurisdiction of the City, which includes all areas within the corporate limits of the City and within **one and one-half (1 ½) miles** of the corporate limits, which shall include specific information about the location, height, design of each tower, and all permits obtained from the FCC and the FAA.

40-14-6 PREFERRED LOCATIONS FOR WIRELESS COMMUNICATION FACILITIES.

The order of preference for locating new wireless communication facilities within the City 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 the Code Inspector, subject to the standards set forth in **Section 40-15-10** of this Chapter.

(B) Locating new support structures on land that meet all of the following requirements:

- (1) The site is located on property zoned Industrial.

- (2) The site has a setback distance of **two hundred (200) feet** from residentially zoned property.
- (3) The site has a minimum spacing requirement distance of **one thousand (1,000) feet** from any other support structure greater than **one hundred (100) feet** in height.
- (4) The support structure does not exceed **two hundred fifty (250) feet** in height in the industrial zoning district, and meets all FAA requirements with respect to the Williamson County Regional Airport.
- (5) Support structures on these lands shall be permitted by the Code Inspector subject to the standards set forth in **Section 40-14-10**.

(C) Locating new support structures on any other lands not meeting the requirements 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 standards set forth in **Section 40-15-10**. 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 accord with **Section 40-15-4** of this Chapter.

40-14-7 REVIEW PROCEDURES.

(A) **Permitted Wireless Communications Facilities.** Attached WCFs that meet the standards set forth in **Section 40-14-10** of this Article shall be permitted by Code Inspector with the appropriate permit. All WCFs with support structures that are located on land in accord with the requirements set forth in **Section 40-14-6(B)** of this Article and meet the standards set forth in **Section 40-14-10** of this Article shall be permitted by administrative review.

(B) **Wireless Communication Facilities Permitted by Special Use.** All other proposed WCFs not included in (A), hereinabove, shall be subject to the special use approval process set forth in **Chapter 40**.

(C) **Temporary Wireless Communications Facilities.** Temporary WCFs may be permitted by the Code Inspector for a period not to exceed **sixty (60) days**. Once 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 temporary permits, the temporary WCF shall be removed within **ten (10) days** at the owner's expense.

(D) **Wireless Communication Facilities Requiring a Certificate of Appropriateness.** Any wireless communication facility, regardless of type, to be located in the downtown historic business district, shall be subject to review by the Historical Preservation Committee.

40-14-8 REQUIRED DOCUMENTATION FOR TOWER AND/OR ANTENNA USE PERMIT.

(A) All requests for a WCF, regardless of type, shall be submitted on an application provided by the City and accompanied by an administrative fee of **One Hundred Dollars (\$100.00)**. The following supporting documents and exhibits shall be attached to the application:

- (1) Scaled site plan.
- (2) Scaled elevation view.
- (3) Color rendering and/or photo simulation of the proposed tower with its antenna, all facilities and required landscaping viewed from the nearest adjacent street or street.
- (4) Copy of the FCC license of each proposed user of the tower, or in the case of new towers, approval from the FCC to construct the tower to demonstrate that all federal and state requirements have been met, including but not limited to those requirements of the National Environmental Policy Act (NEPA), and the Federal Aviation Administration (FAA).
- (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 City to be necessary to assess compliance with this Article.

- (6) Copy of a co-location 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 co-location sites on each new tower.

40-14-9 APPROVAL PROCESS.

(A) **Administrative Review Procedure.** The following administrative review process shall apply to all WCF applications eligible for administrative review.

- (1) **Review Authority.** Review of the proposed WCFs under this Section shall be conducted by the Code Inspector. The Code Inspector may waive or amend specific requirements in **Section 40-15-8** for the submittal of an application.
- (2) **Review Criteria.** Each application shall be reviewed for compliance with the standards specified in **Section 40-15-10** of this Chapter.
- (3) **Timing of Decision.** The Code Inspector shall render a decision on the application as promptly as possible once all requested information has been submitted.
- (4) **Application Approval.** If the application is in compliance with the standards in **Section 40-14-10**, and otherwise meets the requirements of this Article, the Code Inspector shall issue a permit.
- (5) **Application Denial.** If administrative approval is denied by the Code Inspector, the reason for the denial shall be made known to the applicant. The applicant may appeal the decision of the Code Inspector to the Board of Appeals in accord with **Section 40-16-6** of this Chapter.

(B) **Special Review Procedure.** The following shall apply to all applications requiring submission to the Zoning Board for review in accord with **Section 40-16-16** et seq., the special use section of the Zoning Code. The Zoning Board shall consider the following in reaching a decision for recommendation to the City Council.

- (1) **Review Criteria.** Each application shall be reviewed for compliance with the standards set forth in **Section 40-14-10**.
- (2) **Tower Siting Conditions.** The Zoning Board may recommend to the City Council that conditions and restrictions be imposed upon the applicant, or on the premises to be benefited by the permit, as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the WCF with the surrounding property, in accord with the purposes and intent of this Article.
- (3) **Factors in Granting Special Use Permits for Towers.** In addition to any standards for consideration of special use permit applications pursuant to **Section 40-16-16** of the Zoning Code, the Zoning Board shall consider the following factors when reviewing applications for new towers:
 - (a) Height of 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.** No new support structure shall be permitted unless the applicant submits written documentation that

no existing tower structure can accommodate the applicant's proposed WCF. Evidence submitted shall be prepared by a qualified 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 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, cost 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 Code Inspector. 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 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.

40-14-10 DEVELOPMENT STANDARDS. Standards for wireless communication facilities shall include the following:

(A) **Height Standards.** Attached WCFs are exempt from any height standard. The following height standards shall apply to support structures installations and shall supersede the height limitations of the zoning districts in this Chapter.

- (1) WCFs in the Residential districts (R-1, R-2, R-3, and R-4) and PA District (Professional Office) shall be restricted to **fifty (50) feet** in height.
- (2) WCFs in the B-2 District shall be limited to **one hundred fifty (150) feet.**
- (3) WCFs in the Historic Downtown Business District shall be limited to **fifty (50) feet.**
- (4) WCFs in the Industrial District shall be limited to **two hundred (200) feet.**
- (5) All WCF installation shall be subject to the Williamson County Regional Airport Zoning Regulations and the FAA standards contained in Title 14, Code of Federal Regulations, Part 77.

(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 40-14-6** of this Article, but in no instance shall any support structure be less than **twenty (20) 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 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. 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 shrubs capable of creating a continuous hedge and obtaining a height of at least **ten (10) feet**. Trees shall be minimum of **one and one-half (1 ½) inch** caliper, or shrubs a minimum of **thirty-six (36) inches** tall, at the time of planting.

(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 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 impact on adjacent properties.

(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 emergency warning information as may be required by local, state or federal regulations governing WCFs.

(H) **Radio Frequency Emissions.** 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 and maintained in compliance to the Electronics Industries Association/Telecommunications Industries Association 222-E Standard entitled Structural Standards for Steel Antenna Towers and Antenna Supporting

Structures, as it may be updated and amended. Each support structure shall be capable of supporting multiple antenna arrays.

(J) **Co-Location Support Structure Design.** To encourage co-location of WCFs, all WCFs shall be designed to accommodate multiple antenna arrays in accordance with the standards set forth in **Section 40-14-10** of this Article.

(K) **Other Applicable Regulations.**

- (1) **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the National Environmental Policy Act (NEPA); Federal Aviation Administration (FAA), Federal Commerce Commission (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 owner of the towers and antennas governed by this Article shall bring such towers and antennas within 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 City shall comply with the requirements of the Building Code and permitting process in addition to the requirements of this Article.

40-14-11 NONCONFORMING WIRELESS COMMUNICATION FACILITIES. WCFs in existence, or WCFs which have been approved for construction prior to the date of the approval of this Article, which do not comply with the requirements of this Article shall be considered a nonconforming Wireless Communication 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 Article, 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 Article.

(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 Article. However, if the damage to the WCF exceeds **fifty percent (50%)** of the replacement cost, the WCF may only be reconstructed in compliance with this Article.

(D) Any nonconforming WCF not in use as a WCF for a period of **six (6) consecutive months** or longer, which is thereafter determined to be abandoned by the Code Inspector, shall no longer be a nonconforming use.

40-14-12 ABANDONED WIRELESS COMMUNICATION FACILITIES. The owner of a WCF shall file annually a declaration with the City as to the continuing operation of every facility installed and that the facility continues to meet EIA/TIC 222-E standards and any other applicable state and federal standards. Failure to do so shall be determined to mean that the facility is no longer in use and may be considered abandoned subject to the following:

Any WCF that has not operated for a continuous period of **six (6) months** shall be considered abandoned, unless the owner of the WCF provides evidence to the satisfaction of the City that in reasonable good faith, attempts have been made to market the WCF to a provider pursuant to the requirements of this Article.

40-14-13 REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES. The City, in its discretion, may require the owner of an abandoned WCF to remove the WCF within **ninety**

(90) days from the date the owner receives 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 providers cease to use the WCF. 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.

40-14-14 REVOCATION OF TOWER AND ANTENNA USE PERMITS. Any tower and/or antenna use permit issued pursuant to this Article may be revoked by the City as provided hereinafter. If the Code Inspector finds that any permit holder has violated any provision of this Article, or the conditions, restrictions or additional standards of an approved special use, or has failed to make, in reasonable good faith, efforts to provide or seek co-location, the Code Inspector shall notify the permit holder in writing that the permit is revocable due to noncompliance with the conditions of the permit. The Code Inspector shall meet with the permit holder and may grant no more than **thirty (30) days** to correct the violation, in lieu of revocation.

40-14-15 APPLICATION FEE. All applications to construct a wireless communication facility shall be accompanied by a fee of **Two Hundred Dollars (\$200.00)** for administrative and publication costs.

40-14-16 PENALTY. Any violation of any provision of this Article shall result in a fine of not to exceed **Seven Hundred Fifty Dollars (\$750.00)** per day for any one specified violation. Each day a violation continues shall be considered a separate offense. Nothing herein stated shall prohibit the City from exercising any other legal remedy provided under law.

ARTICLE XV - NONCONFORMING USES

40-15-1 CONTINUATION.

(A) Any lawful building, structure or use existing at the time of the enactment of this Code may be continued, although such building, structure, or use does not conform to the provisions of this Code for the district in which it is located, and whenever a district shall hereafter be changed, the then existing lawful use may be continued, subject to the provisions of this Article.

(B) Subject to the provisions of this Article, any legal nonconforming building may be continued in use provided there are no enlargements, or change in use except when required by law.

(C) Any building for which a permit has been lawfully granted prior to the effective date of this Code may be completed in accord with the approved plans, provided construction is started within **one hundred eighty (180) days** and completed as expeditiously as possible. Such building shall be thereafter deemed to be a lawfully established building.

(D) In the event a business is operating in a residential district as a nonconforming use, the hours of the business operation may not be expanded or changed except by the grant of special use permit. **(Ord. No. 30-2004; 07-26-04)**

40-15-2 CHANGE OR EXTENSION. A nonconforming use may be changed or extended only by a special use permit. The regulations established in **Section 40-16-15** et seq. (Special Use) shall be followed.

40-15-3 ABANDONMENT OR DISCONTINUANCE.

(A) Ordinary repairs, maintenance and improved livability of a nonconforming building shall not be deemed an extension of such nonconforming use.

(B) No such structure shall be enlarged in any manner except when permitted by special use.

(C) When any nonconforming use has been discontinued for a period of **six (6) consecutive months**, such use shall not thereafter be resumed and any future use of the premises shall conform with the provisions of this Code.

(D) Any nonconforming building damaged by fire or acts of God shall not be replaced except in conformity with this Code.

40-15-4 RESTORATION. In the event a building constituting a nonconforming use is damaged by any means to the extent of **fifty percent (50%)** or more of its value, the building may be rebuilt only as a conforming use and shall be in compliance with all applicable provisions of this Code. In the event the damage is less than **fifty percent (50%)** of its value, based upon the current applicable costs, the building may be restored to its original condition and the use of such building as it existed at the time of partial destruction may continue.

(A) In the event the Zoning Administrator's estimate of the damage or the market value is unacceptable to the applicant for a building permit to repair or reconstruct, the applicant may appeal to the Zoning Board of Appeals.

(B) In any event restoration or repair of a building must be commenced within **six (6) months** of the date of the damage and completed within **twelve (12) months**.

ARTICLE XVI - ADMINISTRATION AND PROCEDURES

DIVISION I – BOARD OF APPEALS

40-16-1 **ZONING BOARD OF APPEALS.** The Zoning Board of Appeals of the City of Herrin is hereby established pursuant to Article 11, Division 13 of the Illinois Municipal Code.

40-16-2 **APPOINTMENT/COMPENSATION.** The Zoning Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within the corporate limits of the City. Each member of the Board shall be appointed by the Mayor with the advice and consent of the City Council. Compensation may be established by the City Council.

40-16-3 **TERM OF OFFICE/VACANCIES.** The members of the Board of Appeals shall be appointed to serve the following terms: **one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, one (1) for five (5) years, one (1) for six (6) years and one (1) for seven (7) years.** Each member shall serve until his successor has been selected and qualified. Vacancies shall be filled for the unexpired term of the member in the same manner as provided for the original appointment. The successor to each member shall be appointed for a term of **five (5) years.**

40-16-4 **MEETINGS/QUORUM.** One of the members appointed shall be named as Chairman. All meetings of the Board shall be held at the call of the Chairman and at all other times as a majority of the Board may determine. The Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. **Four (4) members** of the Board shall constitute a quorum and the concurring vote of **four (4) members** is necessary to revise any order, requirement, decision or determination of the Code Inspector/Zoning Administrator or to decide in favor of and make an affirmative recommendation upon any request or application for a variance, special use or proposed amendment to **Chapter 40.**

40-16-5 **RECORDS.** The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, and shall keep records of its examinations and all official actions. Every ruling, amendment, order, discussion or determination of the Board shall be filed in the office of the City Clerk and shall be a public record.

40-16-6 **APPEALS.** An appeal to the Board may be taken by any person aggrieved by any decision of the Code Inspector/Zoning Administrator, department or board of the City. The appeal shall be filed within **thirty-five (35) days** of the date the decision giving rise to the appeal was made. The appeal shall be filed with the Code Inspector/Zoning Administrator and with the Board of Appeals, and shall specify the basis for the appeal. Upon receipt of the appeal, the Code Inspector/Zoning Administrator shall transmit all records relevant to the case to the Board of Appeals. Final administrative decisions of the Board shall be subject to review pursuant to the provisions of the Administrative Review Act.

40-16-7 **STAY OF PROCEEDINGS.** An appeal stays all action on the matter unless the Code Inspector/Zoning Administrator certifies to the Zoning Board of Appeals that for reasons stated, a stay would constitute a threat to property.

40-16-8 NOTICE/HEARING. The Board shall fix a reasonable time for the hearing of the appeal and provide notice to the parties by Certified Mail. The Board may reverse, affirm or modify the order, decision or determination of the Code Inspector/Zoning Administrator.

40-16-9 DECISION. The Zoning Board of Appeals shall make a decision on the issue(s) appealed within **thirty (30) days** of the date of the public hearing. The decision of the Board shall be final.

40-16-10 PUBLIC HEARING PROCEDURES. The Zoning Board shall consider all applications for a special use, variance, or amendment to the Zoning Code in a public hearing, and forward a recommendation to the City Council within **fifteen (15) days** of the hearing. Procedures for all public hearings shall be as follows:

- (A) All hearings of the Zoning Board shall be subject to the Illinois Open Meetings Act.
- (B) The Zoning Board shall not be bound by strict rules of evidence; however, irrelevant, immaterial or unduly repetitious evidence shall not be admissible.
- (C) The Chair shall rule on all questions related to the admissibility of evidence, which ruling may be overruled by a majority of a quorum of the Board.
- (D) The Chair may take such action as is reasonably required to maintain order.
- (E) Proof of lawful notice shall be introduced into evidence before the Zoning Board, and made part of the record.
- (F) A record of the proceedings shall be made as directed by the Zoning Board.
- (G) At the public hearing, a petitioner may appear on his own behalf, or may be represented by an attorney.
- (H) The City shall be party in every proceeding, and need not appear.
- (I) In addition to the petitioner, any person may appear and participate in the hearing.
- (J) Persons participating in the hearing shall identify themselves for the record and state whether they have representation. Any person participating, other than the petitioner, may be referred to as an interested party. For purposes of this provision, "interested party" shall be defined as a property owner who owns property within **two hundred (200) feet** of the property which is the subject of the special use, variance, or amendment.
- (K) The examination of a witness shall not be used by the questioner to offer testimony or evidence of the questioner.
- (L) All persons offering testimony at a hearing shall testify under oath.
- (M) The order of presentation of evidence at a public hearing shall generally be as follows, but may be modified as determined appropriate by the Chair:
 - (1) Identification of petitioner and interested persons.
 - (2) Submittal of proof of Notice.
 - (3) Submittal of application of the petitioner.
 - (4) Presentation of testimony and other evidence by the petitioner.
 - (5) Questions of petitioner's witness from the Zoning Board.
 - (6) Cross examination of petitioner's witnesses by interested persons.
 - (7) Presentation of testimony and other evidence by interested persons.
 - (8) Questions of interested persons' witnesses from the Zoning Board.
 - (9) Cross examination of interested persons' witnesses by the petitioner.
 - (10) Report by the Zoning Administrator, if any.
 - (11) Summary by petitioner.
 - (12) Summary by interested persons.
- (N) At the conclusion of the evidentiary portion of the public hearing, the Zoning Board may deliberate its decision on the evidence presented, or continue the hearing to a specific date and time.
- (O) A written recommendation shall be prepared and forwarded to the City Council for final action.

(Ord. No. 39-2003; 08-11-03)

DIVISION II - VARIANCES

40-16-11 VARIANCES. The City Council may determine and vary the application of the regulations of this Article in harmony with the general purpose and intent, and in accord with general or specific rules included herein, in cases where there are practical difficulties or hardship in carrying out the strict letter of any regulation, provided that the use of any building or land shall not be varied.

40-16-12 APPLICATION. Any person desiring a variance from the strict letter of law may apply by filing with the Code Inspector/Zoning Administrator a written statement which includes (1) all relevant facts, (2) the specific location for which the variance is requested; (3) a brief statement of the proposed variance; (4) a detailed scale drawing of the plans; and (5) the payment of a fee to the Code Inspector/Zoning Administrator in an amount to cover the costs of processing the request.

40-16-13 NOTICE/HEARING. The Board of Appeals shall hold a public hearing to consider the variance within **thirty (30) days** after the filing of the application. Notice of the date, time and place of the hearing and the nature of the proposed variance shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing in the following manner:

- (A) By publication in a newspaper of general circulation within the municipality; and
- (B) By regular mail to all parties whose property abuts the property which is the subject to the proposed variance; and
- (C) By first-class mail to the applicant.

Upon conclusion of the hearing, the Board of Appeals shall make a written report and recommendation to the City Council, which report shall contain a summary of the evidence presented to the Board of Appeals and findings of fact specifying the reason or reasons for the recommendations. The report shall be forwarded to the City Council within **thirty (30) days** of the conclusion of the public hearing.

40-16-14 STANDARDS. The power to approve or deny variations shall be exercised only by the City Council by the adoption of an ordinance. The City Council may impose conditions upon the granting of a variation to assure and protect the purposes of this Zoning Code.

The City Council may grant a variation only in accord with the following procedures and requirements:

- (A) A public hearing on the proposed variation has been held by the Zoning Board of Appeals, with notice as provided in this Article.
- (B) The City Council has received a written report, which shall include findings and recommendations from the Zoning Board of Appeals.
- (C) Only upon evidence that such proposed variation meets the following standards:
 - (1) There exists exceptional circumstances or conditions applying to the property in question which do not generally apply to other properties in the same district; and
 - (2) The variation is necessary for the preservation and enjoyment of a substantial property right, but which is denied by the strict letter of the ordinance to the property described in the request; and
 - (3) The granting of a variation will not be a substantial detriment to adjacent property owners or a substantial impairment to the purposes of this Article, or to the public interest.

40-16-15 ACTION BY CITY COUNCIL. Upon receiving the report of the Board of Appeals, the City Council may by ordinance, without further hearing, adopt the proposed variation or may refer the

request to the Board of Appeals for further consideration. Any proposed variation which fails to receive the approval or affirmative recommendation of the Board of Appeals shall not be approved except by the favorable vote of **three-fourths (3/4)** of the City Council.

DIVISION III - SPECIAL USE

40-16-16 SPECIAL USE. A special use is a use permitted by the Zoning Ordinance, subject to the use meeting all standards and conditions imposed by this Article. The purpose of a special use is to provide for those uses which are necessary or generally appropriate, but may require special regulation because of unique or unusual impacts.

40-16-17 APPLICATIONS. Any person may apply for a special use by filing with the Code Inspector/Zoning Administrator a written request which shall include the following:

- (A) Name and address of applicant;
- (B) Name and address of owner, if different than applicant;
- (C) The particular location and zoning for which the use is requested;
- (D) A brief description of the proposed special use;
- (E) A detailed drawing of the plans and layout of the proposed special use, if applicable;
- (F) The existing zoning and uses of property adjacent to the property which is the subject of the special use;
- (G) A statement of all other relevant facts under the language of this Article.

The filing of the request shall be accompanied by a filing fee to be determined by the Code Inspector/Zoning Administrator to defray the costs of investigation, publication and the public hearing.

40-16-18 NOTICE/HEARING. Within **thirty (30) days** of the filing of a written request for a special use, the Board of Appeals shall hold a public hearing. Notice of the time, date and place of the hearing and the nature of the proposed special use shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing in the following manner:

- (A) By publication in a newspaper of general circulation within the Municipality; and
- (B) By first-class mail to all persons whose property abuts the property which is the subject of the proposed special use; and
- (C) By first-class mail to the applicant for the special use.
- (D) Upon conclusion of the presentation of evidence, the Zoning Board of Appeals shall make findings of fact with respect to the following criteria, and shall make a recommendation to the City Council within **fifteen (15) days** of the conclusion of the hearing.

- (1) The establishment, maintenance, or operation of the proposed special use will not be detrimental to or endanger the public health, safety, morals or general welfare.
- (2) The proposed special use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair any property value or property values with the immediate area, and the establishment, maintenance and operation of the proposed special use will be located in a district where such special use is specifically permitted as a special use, upon approval by the City Council.
- (3) The proposed special use is desirable for the public welfare within a given district, although potentially incompatible with the typical uses permitted within such district.

- (4) Adequate utility services, access roads, drainage and other necessary facilities are available at the location for which the special use is proposed, or will be made available as a condition to the granting of the special use.
- (5) Adequate provision for parking, ingress, egress, so designed as to minimize traffic congestion in public streets are available, or will be made available as a condition to the granting of the special use.

Upon conclusion of the hearing, the Board of Appeals shall make a written report and recommendation to the City Council, which report shall contain a summary of the evidence presented to the Board of Appeals and findings of fact specifying the reason or reasons for the recommendations. The report shall be forwarded to the City Council within **thirty (30) days** of the conclusion of the public hearing. **(Ord. No. 39-2003; 08-11-03)**

40-16-19 STANDARDS. The authority to grant or deny a special use shall be exercised only by the City Council by the adoption of an ordinance. The City Council may impose conditions upon the granting of a special use to protect the purposes of this Zoning Code.

The City Council may grant a special use only in accord with the following procedures and requirements:

- (A) A public hearing on the proposed special use has been held by the Zoning Board of Appeals, with notice as provided in this Article.
- (B) The City Council has received a written report which shall include findings and recommendations from the Zoning Board of Appeals.
- (C) Only upon evidence that such proposed special use meets the following standards:
 - (1) The proposed special use is a public or quasi-public use affected with the public interest, or the proposed public use may have a unique or unusual impact upon the use or enjoyment of neighboring property, or the proposed special use is a planned development; or
 - (2) The establishment, maintenance, or operation of the proposed special use will not be detrimental to or endanger the public health, safety, morals or general welfare; and
 - (3) The proposed special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair any property value or property values within the immediate vicinity; and the establishment, maintenance or operation of the proposed special use will be located in a district where such special use is specifically permitted as a special use upon granting by the City Council; and
 - (4) The proposed special use is deemed desirable for the public welfare within a given district although potentially incompatible with the typical uses permitted within such district;
 - (5) Adequate utility services, access roads, drainage, and other necessary facilities are available at the location for which the special use is proposed, or will be made available as a condition to the granting of such special use; and
 - (6) Adequate provision for parking, ingress, and egress, so designed, as to minimize traffic congestion in public streets are available, or will be made as a condition to the granting of such special use.
- (D) The person requesting the special use shall, as a condition to the granting of such special use, provide written assurance that the special use will be established, maintained and operated subject to any conditions reasonably necessary in the opinion of the City Council to meet the foregoing standards.
- (E) The City Council shall, in the ordinance granting such special use, make written specific findings of particular facts specifying the reasons for granting such special use.
- (F) Any use of any buildings, structure or land which is existing and lawful at the time of adoption of this Article and which is subject to classification as a special use, is hereby declared to be a

nonconforming use, provided, that any change as such use involving the enlargement or structure alteration of the building, structure or land devoted to such use shall be subject to the procedure and standards set forth in this Section of the Article.

40-16-20 ACTION BY CITY COUNCIL. Upon receiving the report of the Board of Appeals, the City Council may by ordinance, without further hearing, approve the proposed special use after consideration of the standards set forth in **Section 40-15-18**. Any proposed special use which fails to receive the approval or affirmative recommendation of the Board of Appeals shall not be approved except by the favorable vote of **three-fourths (3/4)** of the City Council.

DIVISION IV - AMENDMENTS

40-16-21 AMENDMENTS. The City Council may amend the regulations imposed and the districts created by this Article. Amendments may be proposed by the City Council, the Code Inspector/Zoning Administrator, the Board of Appeals, or any party in interest.

40-16-22 FILING. Any person desiring an amendment of the Zoning Code shall file a request with the Code Inspector/Zoning Administrator. The written request shall include the following information:

- (A) The specific location for which the amendment is requested;
- (B) A description of the proposed amendment;
- (C) A drawing of the proposed amendment, if applicable;
- (D) The existing zoning of the property which is the subject of the amendment;
- (E) The existing zoning and uses of property adjacent to the property which is the subject of the amendment;
- (F) The suitability of the property for the uses permitted and the suitability of the property in question for the proposed use;
- (G) The development trend in the area of the property which is the subject of the amendment and any changes in the area which have occurred since the property was zoned; and
- (H) The payment of a fee to cover the costs of investigation, publication and the public hearing.

40-16-23 NOTICE/HEARING. Within **thirty (30) days** after the filing of the request for an amendment, the Board of Appeals shall hold a public hearing. Notice of the date, time and place of the hearing shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing in the following manner:

- (A) By publication in a newspaper of general circulation within the Municipality;
- (B) By first-class mail to all persons whose property abuts the property which is the subject of the amendment; and
- (C) By first-class mail to the applicant.
- (D) Upon conclusion of the presentation of evidence, the Zoning Board of Appeals shall make findings of fact with respect to the following criteria, and shall make a recommendation to the City Council within **fifteen (15) days** of the conclusion of the hearing.
 - (1) The existing uses and zoning of the property in question, and of other property in the area of the property in question;
 - (2) The suitability of the property in question for uses permitted under the existing regulations;
 - (3) The suitability of the property in question for the proposed use;
 - (4) The impact upon the neighborhood if the zoning change is granted;

- (5) The extent to which property values are diminished by the specific zoning classification; and
- (6) The trend of development in the area of the property in question, including changes, if any, which may have occurred since the property was initially zoned or rezoned.

Upon conclusion of the hearing, the Board of Appeals shall make a written report and recommendation to the City Council, which report shall contain a summary of the evidence presented to the Board of Appeals and findings of fact specifying the reasons for the recommendations. The report shall be forwarded to the City Council within **thirty (30) days** of the conclusion of the hearing. **(Ord. No. 39-2003; 08-11-03)**

40-16-24 **STANDARDS.** The authority to approve or deny amendments to the Zoning Code shall be exercised only by the City Council by the adoption of an ordinance. The City Council may adopt an amendment in accord with the following procedures and requirements:

- (A) A public hearing on the proposed amendment has been held by the Zoning Board of Appeals, with notice as provided in this Article.
- (B) The City Council has received a written report which includes findings and recommendations from the Board of Appeals.
- (C) After consideration of the written report and findings of the Zoning Board of Appeals, the City Council may grant or deny the zoning change request. **(Ord. No. 39-2003; 08-11-03)**

40-16-25 **VOTE REQUIRED.** A favorable vote of **three-fourths (3/4)** of the members of the City Council is required to approve an amendment to the Zoning Code in the following circumstances:

- (A) When approval is contrary to the recommendation of the Board of Appeals;
- (B) When the amendment is opposed in writing by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across the street or alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered.

In the event of written opposition to an amendment of the Zoning Code, a copy of the written protest shall be served upon the applicant by certified mail at the address shown in the application.

ARTICLE XVII – ADMINISTRATION AND ENFORCEMENT

40-17-1 BUILDING PERMIT. No building or structure shall be constructed, enlarged or altered, until a permit has been issued by the Code Inspector/Zoning Administrator. Except upon written order of the Board of Appeals, no building permit shall be issued for any building or structure where the construction, enlargement or alteration or use thereof would be in violation of any of the provisions of this Chapter. No action on any application for a building permit shall be taken until and unless the applicant has provided all information necessary to review the application. No building permit shall issue until all fees have been paid to the City.

40-17-2 PLANS. There shall be submitted with all applications for building permits of buildings or structures **two (2) copies** of a plan drawn to scale showing actual dimensions or the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and other information as may be necessary to determine whether the permit shall issue. For other than single family dwellings or a two unit dwelling, a site plan is required in accord with **Chapter 41**.

40-17-3 CERTIFICATE OF OCCUPANCY.

(A) No change in the use or occupancy of land, nor any change of use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Code Inspector/Zoning Administrator. Every certificate of occupancy shall state that the new occupancy complies with all provisions of the Revised Code.

(B) No nonconforming use shall be maintained, renewed, or changed, without a Certificate of Occupancy shall be issued by the Code Inspector/Zoning Administrator.

(C) No occupancy permit shall be issued until the construction, enlargement or alteration has been completed, inspected and approved by the Code Inspector/Zoning Administrator. The inspection and approval requires the receipt of a certification signed by a licensed plumber and certified electrician, or a housing inspector, licensed pursuant to the Home Inspection Act, that all electrical and plumbing installed in the building complies with all the applicable electrical and plumbing laws. No building or structure shall be occupied until the certificate is issued to the Code Inspector. **(Ord. No. 37-2005; 07-25-05)**

(D) The Code Inspector/Zoning Administrator shall maintain a record of all certificates issued.

(E) Building permits shall expire **six (6) months** after the date of issuance unless construction has commenced. Once construction has commenced, building permits shall expire **twenty-four (24) months** from the date of issuance. Time extensions may be granted by the Code Inspector/Zoning Administrator for **six (6) months**, upon written request.

40-17-4 ENFORCEMENT. The enforcement of this Chapter is hereby vested in the Code Inspector/Zoning Administrator. The Zoning Administrator shall enforce this Chapter and in furtherance of this authority shall:

(A) Examine any application for a building permit, or any other application pertaining to the use of land, buildings, or structures, and approve the applications when in all respects it conforms with the provisions of this Chapter and other applicable sections of the Revised Code.

(B) Issue all building permits and certificates of occupancy, and maintain permanent records for each.

(C) Conduct inspections of buildings, structures and uses of land as are necessary to determine compliance with the terms of this Chapter and other applicable sections of the Revised Code.

(D) Prepare and submit to the Zoning Board of Appeals and the City Council all pertinent documentation required.

(E) Establish and enforce all written building permit procedures.

40-17-5 **FINALITY OF DECISIONS.** All decisions of the City Council shall in all instances be final and shall be subject to review by a court in the manner provided under Illinois law. No applicant shall apply for the same request for a period of **one (1) year** unless the facts and/or the request have substantially changed.

(Ord. No. 34-2001; 09-24-01)

CHAPTER 41 – SITE PLAN REGULATIONS

<u>ARTICLE</u>		<u>TITLE</u>	<u>PAGE</u>
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CHAPTER 41

SITE PLAN REGULATIONS

ARTICLE I - GENERALLY

41-1-1 DEFINITION. A site plan is a plan for the use and development of real property which is reduced to a scale drawing and including all information required by **Section 41-1-3** hereinbelow. **(Ord. No. 37-01; 10-08-01)**

41-1-2 SITE PLAN REQUIREMENTS. No person shall construct or place upon real property a new building, or addition to an existing building which increases the size of the original building by **thirty percent (30%)** without first presenting and obtaining approval of a site plan from the City. For purposes of this Section, the increase in the size of an existing building by **thirty percent (30%)** shall be determined by the measurement of the perimeter of the building and the proposed addition. This requirement is not applicable to the construction of or an addition to a single family residence or a two-unit dwelling (duplex) on any one lot, parcel or tract of land. No building permit shall issue prior to the approval of the site plan. **(Ord. No. 37-01; 10-08-01)**

41-1-3 INFORMATION REQUIRED ON SITE PLAN. A site plan shall include the following information unless the specific items listed hereinbelow are waived by the City Engineer.

- (A) Legal description of the real property, address, and tax identification number.
- (B) Name and address of owner, and developer, if different from owner.
- (C) Signature, registration number and address of professional surveyor, engineer, or architect who assisted in the development of the site plan.
- (D) Survey of the real property to be developed including distances with angles or bearings and north points.
- (E) Plan scale, not exceeding **one (1) inch** equaling **twenty (20) feet**.
- (F) Zoning classification of the site plan land.
- (G) Existing and proposed street curb cut radii and curb cut width.
- (H) Existing and proposed contours or spot grades at no more than **two (2) foot** intervals. All elevations shall be expressed in feet above mean seal level.
- (I) Location, dimensions and area in square feet of existing buildings not to be razed.
- (J) Proposed buildings with locations, dimensions, area in square feet, number of stories, and type of construction.
- (K) Distance in feet on all sides between buildings and property lines and between buildings.
- (L) Building use, including number of employees or apartments or family units.
- (M) Area of land in square feet.
- (N) Drainage design for roof areas, parking lots and driveways, showing area for method of disposal of surface runoff waters. Surface gradient shall be shown. A statement whether the proposed development is within the flood plain, and if so, whether the proposed development conforms to the requirements of **Chapter 14 (Flood Plain)** of the Herrin Revised Code.
- (O) Location and use of all buildings on adjacent lands that are within **fifty (50) feet** of the property line of the site plan property.
- (P) Limits and location of proposed or existing streets and curbs, sidewalks, easements, and rights of way.
- (Q) Location, size, appurtenances, types of materials and elevation (MSL) where appropriate, of all public and private utilities serving the site.

(R) Location and approximate diameter of proposed or existing trees and other woody stemmed plantings.

- (S) Limits and locations of plantings or physical structures designed to screen visible lights preventing illumination of residential areas.
- (T) Limits, location and size of retaining walls and type of material to be used in construction.
- (U) Limits and location of parking lots, driveways, parking bays, outside storage, rubbish and garbage areas, loading and unloading areas and surfacing and screening thereof, shall be shown on the site plan.
- (V) Directions of vehicular traffic flow to, from and within the area, together with traffic-control signs and markings.
- (W) Locations, height, candle power and type of all outside lighting including street lighting and sign lighting.
- (X) Location of signs.

41-1-4 DESIGN STANDARDS.

- (A) **Landscaping.** All front yards shall be landscaped to soften the effect of the building.
- (B) **Lighting.** When a building, parking lot or driveway adjoins or is within **one hundred (100) feet** of a residential area, provision shall be made to screen vehicle lights to eliminate direct illumination of the residential area. The screening may be provided through the planting of trees or shrubbery, or fencing which harmonizes with the development use of the property and the topographical shall show the flow of run-off water and shall be prepared by a professional engineer.
- (C) **Drainage Designs.** Drainage designs shall be prepared by a professional engineer in accord with Code requirements and good engineering practices. Run-off water from parking lots, roofs, and driveways, shall not be allowed to cross sidewalks or to run onto private property that is not part of the site. When the City Engineer deems appropriate, the design and elevation of the property shall be modified to address any runoff or drainage problems, or a system for water retention shall be provided.
- (D) **Rubbish-Garbage.** Outside storage areas shall be screened from view to a height of at least **six (6) feet** and shall be constructed to prevent dispersal of the material contained therein.

41-1-5 ADMINISTRATIVE PROCEDURES.

- (A) An application for site plan review shall be secured from and filed with the City Code Inspector.
- (B) **Three (3) copies** of the site plan shall be filed with the application, which shall include all information set forth in **Section 41-1-3.**
- (C) Each application shall be accompanied by a fee of **Fifty Dollars (\$50.00).**

41-1-6 APPEALS. Any party who is denied approval of a site plan may appeal the decision to a committee comprised of the chairs of the Public Improvement, Public Works and Public Safety Committees. Any appeal shall be in writing and shall specify all items being appealed. The committee chairs shall consider the matters appealed and render a decision within **fifteen (15) days** of the filing. The decision of the committee shall be final.

41-1-7 VARIANCE. Any request for a variance from the requirements of this Chapter may be presented to the Committee comprised of the chairs of the Committees identified hereinabove.

**(See Chapter 34 – Subdivision Code also)
(Ord. No. 6-2000; 03-27-00)**

ARTICLE II – STORM WATER DETENTION

41-2-1 PURPOSE AND APPLICABILITY.

(A) The growth in and around the City and associated development; construction of buildings, paved surfaces, roads and other improvements has altered in the past and continues to alter the natural flow of surface waters on land. This alteration of natural flows of surface waters on land together with the construction of gutters, culverts, drains and channels for carrying of surface waters has both increased the quantity of storm water and amplified peak flow rates of runoff thus leading to present and potential flooding of property and homes, dangerous flows within and over public streets, and soil/channel erosion.

(B) It is the intention of the City to protect the health and safety of citizens and visitors of the community and to prevent damage to private property and public facilities through the proper design and construction of both on-site and regional storm water detention facilities that prevent or adequately reduce increases in peak flow rates of runoff that may otherwise increase the risk of flooding and associated risk of public endangerment, property damage and erosion.

(C) It is the intention of the City, through this Article, to establish a storm water detention program for the design and construction of storm water detention facilities so, where practical, the most cost-effective protection from flooding may be accomplished.

(D) It is the intention of the City to protect the health and safety of citizens and visitors of the community and to prevent damage to private property and public facilities through the installation of temporary and permanent erosion control practices that prevent or adequately reduce increases in erosion and siltation that may otherwise increase the risk of flooding and the associated risk of public endangerment and property damage by clogging and/or partial filling of constructed or natural drainage ways as well as drainage structures and detention facilities.

(E) This Article shall apply to all property within the corporate city limits and the **one and one-half (1 ½) mile** zoning jurisdiction by the City.

(F) Sections of this Article shall not apply to:

- (1) Single family or duplex residential lots of subdivisions approved prior to the adoption of this Article, unless specifically required by prior agreement between the City and the owners or developers of such subdivisions, or to new one or two-lot subdivisions for single family or duplex residential lots. This Article is intended to be implemented for entire residential subdivisions and commercial developments at the time of platting and not on individual lot basis for single family and duplex residential subdivisions.
- (2) Residential lots in the non-subdivided areas that create no more impervious ground cover than **twenty percent (20%)** of the gross lot surface area exclusive of any area within the **one hundred (100) year** flood plain.

41-2-2 STANDARDS AND REQUIREMENTS FOR STORM WATER DETENTION.

(A) It is prohibited to place fill material or construct impervious cover or construct or place any other structure on such person's property or perform any excavation or grading in a manner which alters the flow of surface water across said property in a manner which damages any adjacent property.

- (1) No final subdivision plat, subdivision construction plan, or site plan shall be approved by the City unless it can be demonstrated by the owner or developer of such property that the proposed development will not result in damage to any adjacent or downstream property. This will be certified by a professional engineer's submittal of sufficient data and calculations.

(B) The above requirement shall be accomplished through one of the following means:

(1) Design and construction of an on-site storm water detention facility, or facilities, by the land owner or developer which limits the peak flood flows from the proposed development to the existing peak flood flows from the subject tract.

(C) Acceptance of requests from the land owner or developer to meet the storm water detention requirements through measures listed in (A) and (B) above is solely at the discretion of the City and shall not relieve the owner of responsibility under civil law to adjacent and downstream properties.

(D) Acceptance by the City of on-site storm water detention plans will be based on the suitability and adequacy of the engineering and technical design of the proposed storm water detention facility, as described in **Section 41-2-3** below.

41-2-3 ADDITIONAL STANDARDS FOR APPROVAL.

(A) A Registered Professional Engineer, licensed in the State of Illinois and qualified and experienced in the design and operation of storm water detention ponds and related storm water management facilities, shall perform the hydraulic and structural design of storm water detention ponds and related storm water management facilities, including the development of engineering and technical information required for evaluation by the City.

(B) All design and technical information necessary to thoroughly evaluate the suitability and adequacy of engineering and technical design of proposed on-site stormwater detention facilities and, if proposed, off-site facilities shall be provided to the City for review. All detention and runoff calculations, including computer model simulations, if used, shall be provided.

(C) All on-site storm water detention facilities shall be designed to adequately and safely pass all storm water inflows, including flood flows and runoff from upstream and adjacent properties that have natural and/or existing overland flows toward and onto the subject tract. The on-site storm water detention facilities should not impound storm water onto or cause backwater to inundate any upstream or adjacent properties in excess of existing conditions.

(D) On-site storm water detention facilities shall not be placed such that they encroach into the regulatory 100-year floodplain as established by the City and/or the Federal Emergency Management Agency, unless it can be satisfactorily demonstrated to the City through the use of hydraulic modeling that such encroachment will not cause any rise in the 100-year flood level on other off-site properties or that the increase in the 100-year flood level caused by such encroachment will occur entirely onsite on the owner's or developer's property.

(E) Additional engineering and technical rules and guidance with respect to the application and review of the storm water detention requirements of this Article may be provided by the City.

41-2-4 PLANNING AND DESIGN DRAINAGE CRITERIA.

(A) **General.** The Drainage Criteria included in this Section are for the purpose of providing a set of guidelines for planning and designing storm drainage facilities in the City and within its extraterritorial jurisdiction. These drainage criteria will be used by City Departments, City engineer, and consulting engineers for private developments in the City.

(B) **Rational Method for Peak Storm Flows.** The formula to be used for calculating peak storm flows for drainage areas less than **two hundred (200) acres** shall be the Rational Method, in which:

Q = CIA, where

- Q – is the peak storm flow at a given point in cubic feet per second (cfs).
- C – is the runoff coefficient that is equal to the ratio that the peak rate of runoff bears to the average rate (intensity) of rainfall;

- I - is the average intensity of rainfall in inches per hour for a storm duration equal to the time of travel for run off to flow from the farthest point of the drainage area to the design point in question;
- A - is the drainage area tributary to the design point, in acres.

Note: For drainage areas greater than **two hundred (200) acres**, peak storm flows shall be determined based on a flow routing analysis using detailed hydrographs such as the Soil Conservation Service hydrologic methods that are available in such computer programs as TR-20, HEC-1, etc.

(C) **Runoff Coefficient.** The runoff coefficient (C) shall consider the slope of the terrain, the character of the land use, the length of overland flow and the imperviousness of the drainage area and shall be determined based on ultimate land development. The run-off coefficient for the appropriate land used shall be as follows:

Commercial	0.90
Industrial	0.70
Single Family Residential	0.55
Multi-Family	0.75
Parks and Open Space	0.35
Schools, Churches, etc.	0.75

(D) **Rainfall Intensity-Frequency.** The rainfall intensity-frequency curves which are shown from data provided by the Illinois Department of Transportation.

The intensity (I) in the formula $Q=CIA$, is determined from the curves by arriving at a time of concentration for the subject drainage area and adapting a storm frequency upon which to base the design of drainage improvements.

(1) **Time of Concentration.** The time of concentration, which is the longest time of travel for runoff to flow from any point of the subject drainage area to the design point, consists of the time required for runoff to flow overland plus the time required to flow in a street gutter, storm drain, open channel or other conveyance facility. A minimum time of concentration of **fifteen (15) minutes** shall be used for Single Family Residential Parks and Open Space areas and a minimum time of concentration of **ten (10) minutes** shall be used for Commercial, Industrial, Multi-Family Residential, School and Church areas.

(2) **Storm Frequency.** Required design storm frequencies for storm drainage improvements in the City are shown in the following table.

Type of Facility	Design Frequency (Years)
*Storm Sewer Systems	25
*Culverts, Bridges, Channel, and Creeks	100

*The drainage system shall be designed to carry those flows greater than the 25-year frequency up to and including a 100-year frequency within defined rights-of-way or drainage easements.

(E) **Area.** The drainage area used in determining peak storm flows shall be calculated by subdividing a map into the watersheds within the basin contributing storm water runoff to the system. Areas shall be determined by plan metering or digitizing.

(F) **Stormwater Detention Pond Design.** The basic concept underlying the use of stormwater detention pond (SDP) involves providing temporary storage of stormwater runoff so that peak rates of runoff can be reduced. Runoff is released from storage at a controlled rate which cannot exceed the capacities of the existing downstream drainage systems or the predeveloped peak runoff rate of the site, whichever is less.

Stormwater detention ponds may be of two (2) basic types: On-site and Regional. In general, on-site ponds are those which are located off-channel and provide stormwater detention for a particular

project of development. Regional ponds are designed to provide stormwater detention in conjunction

with other improvements on a watershed-wide basis. The performance and safety criteria in this Section apply to all ponds which provide management of peak rates of stormwater runoff, regardless of type.

Performance Criteria for On-Site SDP's.

- (1) On-site SDP's are further classified as either small or large, as follows:

On-Site SDP Pond Class	Drainage Area
Small	<25 acres
Large	25-64 acres

For design purposes, any pond with a drainage area larger than **sixty-four (64) acres** shall be classified as a regional pond.

- (2) On-site SDP ponds shall be designed to reduce post-development peak rate of discharge to existing pre-development peak rates of discharge for the 10 and 100-year storm events at each point of discharge from the project or development site. In addition, the capacity of the existing downstream systems must be considered in determining the need for managing the 100-year storm event. For the post-development hydrologic analysis, any off-site areas which drain to the pond shall be assumed to remain in the existing developed condition.
- (3) A Modified Rational Method (MRM) may be used for the design of small on-site ponds only. The maximum contributing drainage area to a pond designed with the MRM is **ten (10) acres** when using this equation.

Safety Criteria for SDP's. All ponds shall meet or exceed all specified safety criteria. Use of these criteria shall in no way relieve the engineer of the responsibility for the adequacy and safety of all aspects of the design of the SDP.

- (1) The spillway, embankment, and appurtenant structures shall be designed to safely pass the design storm hydrograph with the freeboard shown in the table below. All contributing drainage areas, including on-site and off-site area, shall be assumed to be fully developed. Any orifice with a dimension smaller than or equal to **eight (8) inches** shall be assumed to be fully blocked.

Detention Pond Class	Design Storm Event	Freeboard to Top of Embankment, Ft.
On-Site:	Small 100 year	1.0'
	Large 100 year	1.0'

- (2) All SDP's (except small on-site ponds) shall be designed using a hydrograph routing methodology. A Modified Rational Method may be used only for contributing drainage areas less than **ten (10) acres**.
- (3) The minimum embankment top width of earthen embankments shall be as follows:

Total Height of Embankment, Ft.	Minimum Top Width, Ft.
0-6	4
6-10	6
10-15	8
15-20	10
20-25	12
25-35	15

- (4) The constructed height of an earthen embankment shall be equal to the design height plus the amount necessary to ensure that the design height will be maintained once all settlement has taken place.

- This amount shall in no case be less than **five percent (5%)** of the total fill height. All earthen embankments shall be compacted to **ninety-five percent (95%)** of maximum density.
- (5) Earthen embankment side slopes shall be no steeper than **four (4)** horizontal to **one (1)** vertical. Slopes must be designed to resist erosion, to be stable in all conditions and to be easily maintained. Earthen side slopes for regional facilities shall be designed on the basis of appropriate geotechnical analyses.
 - (6) Detailed hydraulic design calculation shall be provided for all SDP's. Stage-discharge rating data shall be presented in tabular form with all discharge components, such as orifice, weir, and outlet conduit flows, clearly indicated. A stage-storage table shall also be provided.
 - (7) When designing SDP's in a series (i.e., when the discharge of one pond becomes the inflow to another), the engineer must submit a hydrologic analysis which demonstrates the system's adequacy. This analysis must incorporate the development of hydrographs for all inflow and outflow components.
 - (8) No outlet structures from SDP's, parking detention, or other concentrating structures shall be designed to discharge concentrated flow directly onto arterial or collector streets. Such discharges shall be conveyed by a closed conduit to the nearest existing storm sewer. If there is no existing storm sewer within **three hundred (300) feet**, the outlet design shall provide for a change in the discharge pattern from concentrated flow back to sheet flow, following as near as possible the direction of the gutter.
 - (9) Stormwater runoff may be detained within parking lots. However, the engineer should be aware of the inconvenience to both pedestrians and traffic. The location of ponding areas in the parking lot should be planned so that this condition is minimized. Stormwater ponding depths (for the 100-year storm) in parking lots are limited to an average of **six (6) inches** with a maximum of **eight (8) inches**.
 - (10) All pipes discharging into a public storm sewer system shall have a minimum diameter of **twelve (12) inches**. In all cases, ease of maintenance and/or repair must be assured.
 - (11) All concentrated flows into a SDP shall be collected and conveyed into the pond in such a way as to prevent erosion of the side slopes. All outfalls into the pond shall be designed to be stable and non-erosive.

Outlet Structure Design. There are **two (2)** basic types of outlet control structures: those incorporating orifice flow and those incorporating weir flow. Weir flow is additionally broken down into **two (2) categories**: rectangular and V-notch. In each type, the bottom edge of the weir over which the water flows is called the crest. Sharp-crested and broad-crested weirs are the most common types.

Generally, if the crest thickness is more than **sixty percent (60%)** of the nappe thickness, the weir should be considered broad-crested. The coefficients for sharp-crested and broad-crested weirs vary.

Detention Pond Storage Determination. The method to be used for determining detention pond volume requirements is governed initially by the size of the total contributing drainage area to the pond.

For contributing areas up to **ten (10) acres**, a Modified Rational Method (MRM) may be used. For contributing areas greater than **ten (10) acres**, a flow routine analysis using detailed hydrographs must be applied. The Soil Conservation Service hydrologic methods (available in TR-20, HEC-1) can be used. The engineer may use other methods but must have their acceptability approved by the City. These methods may also be used for the smaller areas. The most noticeable difference between the **two (2)** methods is that the MRM is essentially an approximation of the dynamic routing procedures

used in the flow routing analysis using detailed hydrographs. The MRM is also limited in application by the restrictions and assumptions associated with the Rational Method.

Modified Rational Method (MRM). The MRM is derived from the Rational Method previously described in Section (B). This procedure determines the critical storm duration which produces the largest pond storage requirement with respect to the release rate values established for the pond. These release rates can be derived either from pre-development conditions or from specified allowable release rate criteria. In addition to the general criteria stated previously, the following MRM criteria must also be follows:

- (1) Maximum contributing area to the pond is **ten (10) acres**.
- (2) All off-site flows must be diverted around the pond.
- (3) Pond outflows calculated by the MRM may not be used as inflows to another pond (i.e., cascaded ponds cannot be analyzed by the MRM).
- (4) If the critical storm duration procedures a peak flow less than the allowable peak release rate, the storm duration to be used in all subsequent calculation shall be that which produces a peak flow equal to the allowable peak release rate.
- (5) On-site flows which do not enter a pond are referred to as "bypass" flow. All such flows must be subtracted from the allowable peak flow release rate for the development.
- (6) Only single-storm events can be analyzed with the MRM.

The MRM is based on the same assumptions as the Rational Method. The most significant assumption is that the period of rainfall intensity averaging is equal to the duration of the storm. This means that the rainfall and corresponding runoff which occurs either before or after that averaging period are not considered in the storage calculations. Comparison of storage volumes calculated by the MRM with volumes calculated by the Hydrograph Method suggests that significant underestimation of required storage volumes may result for areas larger than a few acres. This appears to be a direct result of the assumption just stated. Therefore, a volume adjustment factor is always applied to the storage calculated by this procedure.

The MRM also assumes that the outflow hydrograph can be approximated by either a triangular or trapezoidal shape. If the rainfall duration is greater than t_c then the approximate shape of the hydrograph is a trapezoid. If the rainfall duration is equal to the t_c then the approximate hydrograph is a triangle. This assumption is equivalent to assuming that the effective contributing drainage area increases linearly with time. In other words, there is a linear area-time relationship for the contributing drainage area. If the actual relationship differs significantly from this assumption (e.g., a preponderance of either quickly-arriving or greatly-delayed flows), the pond could be significantly oversized or undersized.

The MRM was originally designed as a graphical procedure and is still widely used and accepted in that format for storage volume calculations.

Detention Pond Maintenance and Equipment Access Requirements.

- (1) Silt shall be removed and the pond returned to original lines and grades when standing water conditions occur or the pond storage volume is reduced by more than **ten percent (10%)**.
- (2) To limit erosion, no unvegetated area shall exceed **ten (10) square feet** in extent.
- (3) Accumulated paper, trash and debris shall be removed every **six (6) months** or as necessary to maintain proper operation.
- (4) Ponds shall be mowed annually between the months of June and September.
- (5) Corrective maintenance is required any time a dry pond does not drain completely within **sixty (60) hours** of cessation of inflow (i.e., no standing water is allowed).
- (6) Structural integrity of pond embankments shall be maintained at all times.

Alternative Designs/Underground Systems/Infiltration. Underground stormwater detention systems are a structural best management practice (BMP) used to control the flow of stormwater and if demonstrated to be effective at maintaining the post construction peak flows to pre-

construction peak flows will be considered by the City. Detention systems work as an integral part of the

storm sewer system to provide a temporary storage area for excess stormwater. Runoff is stored and discharged over time whenever runoff inflow exceeds the allowable discharge rate. The systems are typically installed beneath parking lots, streets and parks to maximize property usage and lower development costs.

On sites where soils drain well and the water table is low enough, a stormwater infiltration system may be the most economical means for managing runoff. Unlike detention systems, which typically discharge runoff from a single outlet pipe, infiltration systems allow accumulated runoff to percolate into the subsoil. Water quality is usually improved through the soils natural filtering ability. Infiltration systems can also minimize water table reductions. Infiltration is a key feature of low impact (LID) designs.

Certifications Required. After completion of the project and before final approval and acceptance can be made, an "As Built" set of plans prepared and certified by a professional engineer shall be submitted to the Council for review. These plans shall include all pertinent data relevant to the completed storm drainage system and shall include:

- (1) Pipe size and pipe material.
- (2) Invert elevations.
- (3) Top rim elevations.
- (4) Lengths of all pipe structures.
- (5) Data and calculations showing detention basin storage volume.
- (6) Certified statement on plans stating the completed storm drainage system substantially complies with construction plans as approved by the Council.

All such submitted plans shall be reviewed for compliance by the City Engineer or other City designee. Upon approval of the submitted plans, such approval shall be evidenced in writing to the person submitting the plans.

(Ord. No. 13-2016; 06-13-16)

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