

**Revised Code
-of-
Ordinances
of
Carlinsville
*Illinois***

[August 1, 2022]

**PREPARED BY:
Illinois Codification Services**
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CITY OF CARLINVILLE

ORDINANCE NO. 2019-_____

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

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

THIS ____ DAY OF _____, 2019

Published in pamphlet form by authority of the Mayor and the City Council of the City of Carlinville, Macoupin County, Illinois this _____ day of _____, 2019.

ORDINANCE NO. 2019-_____

AN ORDINANCE ADOPTING A REVISED CODE OF ORDINANCES FOR THE CITY OF CARLINVILLE, MACOUPIN COUNTY, ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARLINVILLE, MACOUPIN COUNTY, ILLINOIS, THAT:

SECTION 1: Amendment. The following exhibit shall be the "**Revised Code of Ordinances**" of the City of Carlinville, Macoupin County, Illinois shall be as follows:

SEE EXHIBIT "A" FOLLOWING

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

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ordinances, code provisions or pertinent portions thereof in effect at the time this ordinance takes effect are hereby repealed.

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

SECTION 5: Passed this ____ day of _____, 2019 by the City Council of the City of Carlinville, Macoupin County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.

CARLA BROCKMEIER, CITY CLERK
CARLINVILLE, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT
John Howard					
Todd Koller					
Bill Link					
Elaine Brockmeier					
Doug Downey					
Dick McClain					
Randy Ober					
Sarah Oswald					

Approved by the Mayor of the City of Carlinville, Macoupin County, Illinois, this ____ day of _____, 2019.

DEANNA DEMUZIO, MAYOR
CARLINVILLE, ILLINOIS

ATTEST:

CARLA BROCKMEIER, CITY CLERK
CARLINVILLE, ILLINOIS

(SEAL)

CITY CLERK'S CERTIFICATE

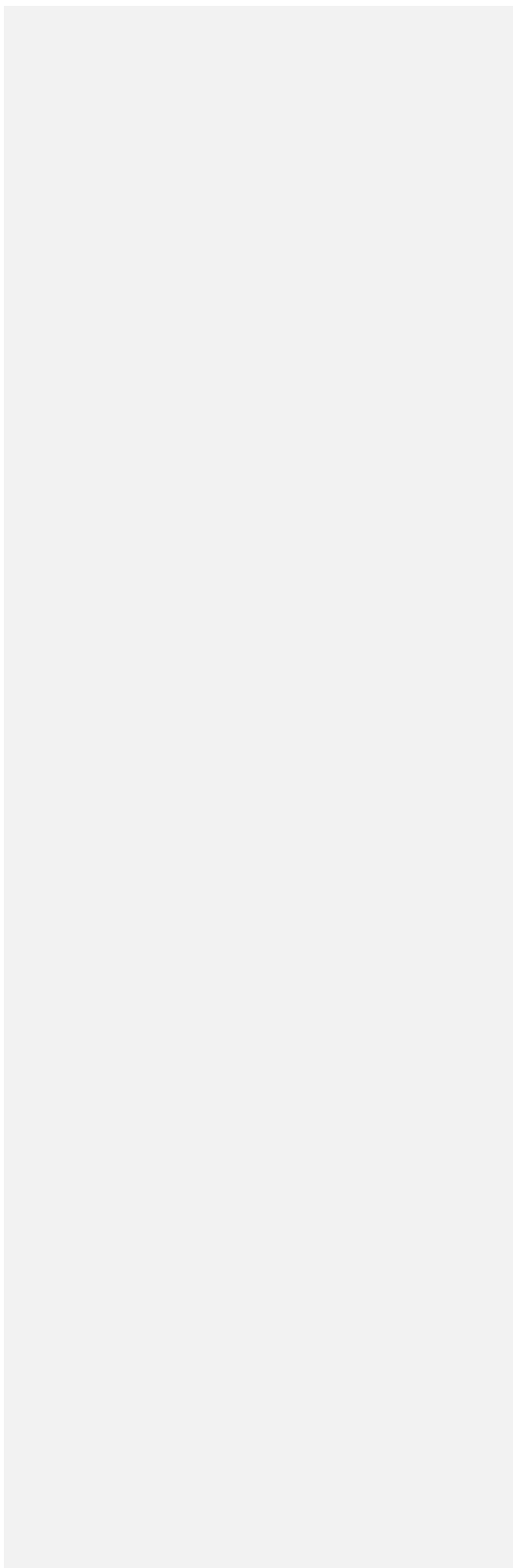
STATE OF ILLINOIS)
COUNTY OF MACOUPIN) **ss. CITY CLERK'S OFFICE**
CITY OF CARLINVILLE)

I, Carla Brockmeier, City Clerk of the City of Carlinville, Illinois, do hereby certify that the following Code of the City of Carlinville, Macoupin County, Illinois, published by authority of the City Council was duly passed by the City Council of the City of Carlinville, 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 Carlinville, Illinois, this ___ day of _____, 2019.

CARLA BROCKMEIER
CITY CLERK
CARLINVILLE, ILLINOIS

(SEAL)



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[2017]

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1280	Motor Vehicles: Parking	10/18/93	Sec. 24-6-3; Schd. "F"
1281	Motor Vehicles: Parking	10/18/93	Sec. 24-6-3; Schd. "F"
1284	Motor Vehicles: Parking	12/06/93	Sec. 24-6-3; Schd. "F"
1285	Motor Vehicles: Stop	12/20/93	Sec. 24-3-3; Schd. "A"
1286	Motor Vehicles: Parking	12/20/93	Sec. 24-6-3; Schd. "F"
1287	Motor Vehicles: Parking	01/17/94	Sec. 24-6-3; Schd. "F"
1288	Street Encroachments	01/17/94	Special Legislation
1289	Animals: City Square	02/07/94	Sec. 3-1-2
1290	Utilities: Rates	01/07/94	Sec. 38-4-11
1291	Administration: Committees	04/04/94	Sec. 1-2-5
1292	Mobile Homes	04/04/94	Sec.
1293	Personnel - Administration	05/16/94	Chapter 13
1294	Motor Vehicles: Yield	05/16/94	Sec. 24-3-4; Schd. "K"
1298	Lake Carlerville	06/20/94	
1305	Motor Vehicles: Parking	11/07/94	Sec. 24-6-3; Schd. "F"
1308	Utilities: Sewer Rates	02/06/95	Sec. 38-4-18
1312	Nuisances: Motor Vehicle	06/05/95	Ch. 25; Art. VI
1313	Motor Vehicle: Stop St.	06/19/95	Sec. 24-3-3; Schd. "A"
1318	Motor Vehicle: Stop St.	08/07/95	Sec. 24-3-3; Schd. "A"
1319	Lake Carlerville: Blind Fees	08/21/95	Sec. 19-2-2
1320	Motor Vehicles: Stop	09/05/95	Sec. 24-3-3; Schd. "A"
1321	Utilities: Deposits	10/16/95	Sec. 38-2-8
1322	Motor Vehicles: Stop	11/06/95	Sec. 24-3-3; Schd. "A"
1325	Motor Vehicles: Stop	12/04/95	Sec. 24-3-3; Schd. "A"
1327	Utilities: Water Tap-Ons	12/19/95	Sec. 38-4-10
1328	Motor Vehicles: Stop	01/15/96	Sec. 24-3-3
1329	Motor Vehicles: Parking	02/05/96	Sec. 24-6-3(C)
1330	Utilities: Annex – Water Service	03/04/96	Sec. 38-3-1
1331	Lake Carlerville: Fees for Camping, Etc.	03/18/96	Sec. 19-1-8
1332	Lake Carlerville: Regulations	03/18/96	Sec. 19-3-1
1343	Utilities: Water Turn-On Fees	07/15/96	Sec. 38-2-1(H)(3)
1344	Streets: Skateboards	08/05/96	Sec. 33-2-6
1345	Motor Vehicles: Speed Limit	08/05/96	Sec. 24-4-1
1346	Liquor: Illegal Consumption	08/19/96	Sec. 21-3-11
1347	Utilities: Handicapped Fine	09/03/96	Sec. 24-6-4(D)
1349	Administration: Ordinances Etc. Reconsider	09/16/96	Sec. 1-2-11(U)
1351	Subdivision Code: Revisions	10/21/96	Ch. 34 (Various)
1354	Utilities: Rates	02/03/97	Sec. 38-4-11; 38-4-18
1358	Motor Vehicles: Stop	04/07/97	Sec. 24-3-3; Schd. "A"
1360	Employee Code	04/07/97	Sec. 13-1-4
1361	Motor Vehicle: Stop	05/05/97	Sec. 24-3-3; Schd. "A"
1363	Motor Vehicle: Stop	05/05/97	Sec. 24-3-3; Schd. "A"
1364	Administration	06/02/97	Sec. 1-3-1

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1365	Motor Vehicles: Parking	06/16/97	Sec. 24-6-3(C); Schd. "F"
1372	Lake Carlerville: Duck Hunting	09/02/97	Secs. 19-2-1; 19-2-10
1373	Public Safety: Fire Rates	09/15/97	Sec. 30-3-32
1374	Motor Vehicles: Stop Signs and Parking	10/06/97	Secs. 24-3-3; 24-6-3
1375	Administration: Public Discussions	10/06/97	Sec. 1-2-11
1376	Garbage: Licenses	10/20/97	Sec. 16-1-2
1377	Motor Vehicles: Parking	10/20/97	Sec. 24-6-3(G)
1378	Motor Vehicles: Stop Signs	10/20/97	Sec. 24-3-3(A)
1379	Motor Vehicles: No Parking	11/17/97	Sec. 24-6-3
1382	Utilities: Sewer	03/02/98	Sec. 38-5-1; 38-5-7
1383	Lake Carlerville	04/20/98	Sec. 19-1-21(F)
1384	Motor Vehicles: Stop	05/04/98	Sec. 24-3-3; Schd. "A"
1385	Offenses: Trash Barrels	05/04/98	Sec. 27-2-18
1386	Utilities: Water Rates	05/18/98	Sec. 38-4-11
1391	Utilities: Sewers	07/20/98	Sec. 38-4-23
1392	Motor Vehicles: Stop	08/17/98	Sec. 24-3-3; Schd. "A"
1393	Motor Vehicles: Parking	08/17/98	Sec. 24-6-3; Schd. "E"
1394	Motor Vehicles: Stop	09/21/98	Sec. 24-3-3; Schd. "A"
1400	Animals: Fees	04/05/99	Sec. 3-2-8(E)
1403	Motor Vehicles: Stop	05/03/99	Sec. 24-3-3; Schd. "A"
1404	Administration: Public Works	06/07/99	Sec. 1-2-105 (Repealed)
1406	Utilities: Water Rates	1999	Secs. 38-4-11; 38-4-18
1407	Administration	07/06/99	Sec. 1-3-1
1409	Lake Carlerville	09/07/99	Sec. 19-1-11
1410	Offenses: Tobacco	09/20/99	Sec. 27-2-19
1411	Buildings: Fire Inspection	09/20/99	Sec. 6-4-1
1411A	Purchase of Park Property	1999	Special Legislation
1412	Tax Levy	1999	Special Legislation
1413	Motor Vehicles: Stop Intersections	02/21/00	Sec. 24-3-3; Schd. "A"
1414	Administration: Gift Ban Act	02/07/00	Chapter 1
1415	Motor Vehicles: Speed Zone	03/06/00	Ch. 24; Schd. "D"
1416	Vacate Alley: Seminary Addition	05/15/00	Special Legislation
1417	Administration: Salaries		Sec. 1-3-1
1418	Motor Vehicles: Stop	07/03/00	Sec. 24-3-3; Schd. "A"
1419	Appropriation	2000	Special Legislation
1420	Lake Carlerville: Duck Hunting	07/17/00	Secs. 19-2-12; 19-2-13; 19-2-15; 19-2-16; 19-2-21
1421	Motor Vehicles: Speed Limits	09/18/00	Sec. 24-4-2; Schd. "D"
1422	Purchase Real Estate	2000	Special Legislation
1423	Purchase Russell Property	2000	Special Legislation
1424	Purchase Property	2000	Special Legislation
1425	Sign Code	11/20/00	Chapter 31
1426	Annexation: Rieher's	12/04/00	Special Legislation
1427	Annexation: Hudson	12/04/00	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
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1429	Annexation	2000	Special Legislation
1430	Purchase of Loveless Property	2000	Special Legislation
1431	Tax Levy	2000	Special Legislation
1432	Motor Vehicles: Parking	01/16/01	Sec. 24-6-3; Schd. "F"
1433	Discharge of Sewer into Street	01/16/01	Special Legislation
1434	Streets: Encroachment	01/16/01	Chapter 33
1435	Vacating Alley: McCasland Pl.	03/05/01	Special Legislation
1436	Annexation	2001	Special Legislation
1437	Lake Carlerville: Fees	04/02/01	Secs. 19-1-8; 19-1-21(F)
1438	Lease Street Sweeper	2001	Special Legislation
1439	Administration: Committees	05/07/01	Sec. 1-2-5
1440	Annexation	2001	Special Legislation
1441	Annexation	2001	Special Legislation
1442	Vacating Alley	2001	Special Legislation
1443	Easement Agreement	06/05/01	Special Legislation
1444	Appropriation	2001	Special Legislation
1445	Administration	07/16/01	Sec. 1-3-1
1446	Annexation	2001	Special Legislation
1447	Administration	08/20/01	Sec. 1-2-5
1448	Motor Vehicles: Parking	08/20/01	Sec. 24-6-3; Schd. "G"
1449	Streets: Planting Trees	09/04/01	Sec. 33-3-2
1450	Motor Vehicles: Stop Sign	08/20/01	Sec. 24-3-3; Schd. "A"
1451	Streets: Leaf Burning	10/01/01	Sec. 33-2-18
1452	Tax Levy	2001	Special Legislation
1453	Lease Real Estate Totsch	11/19/01	Special Legislation
1454	Motor Vehicles: Stop Signs	12/03/01	Repealed
1455	Motor Vehicles: Repeals #1454	01/07/02	Special Legislation
1456	Motor Vehicles: Parking Fines	03/04/02	Section 24-6-6
1457	Lake Carlerville: Boat Licenses	03/04/02	Section 19-1-8
1458	Offenses: Public Urination	03/187/02	Section 27-4-5
1459	Annexation (12-000-438-00)	05/06/02	Special Legislation
1460	Zoning Code	07/01/02	Chapter 40
1461	Appropriation	07/15/02	Special Legislation
1462	Administration: Salaries	08/05/02	Sec. 1-3-1
1463	Public Safety: Outside Fire	08/05/02	Sec. 30-3-22
1464	Parks: Recreation Board	08/19/02	Chapter 28
1465	Administration: Superintendent	08/19/02	Ch. 1; Art. II
1466	Motor Vehicles: Stop Signs	09/03/02	Sec. 24-3-1; Schd. "A"
1467	Motor Vehicles: Parking	09/03/02	Sec. 24-6-3; Schd. "F"
1468	Encroachment: Alton Street	09/03/02	Special Legislation
1469	\$800,000 Water Bonds	11/18/02	Special Legislation
1470	Annexation: 12-000-517-00	12/02/02	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1471	Offenses: Open Burning	12/16/02	Secs. 27-8-1; 27-8-2; 27-8-3
1471A	Freedom of Information	12/02/02	Chapter 15
1472	Business: Fees	12/16/02	Secs. 7-1-10; 7-2-9
1472A	Land Purchase	12/02/02	Special Legislation
1473	Tax Levy	12/16/02	Special Legislation
1473A	Motor Vehicles: School Speed	02/03/03	Section 24-
1474	Utilities: Rates	02/21/03	Secs. 38-4-11
1475	Motor Vehicles: Speed Zone	03/03/03	Section 24-
1476	Budget System	03/17/03	Special Legislation
1477	Garbage: Trash License	03/17/03	Section 16-1-2
1478	Utilities: Water Definitions	03/17/03	Section 38-4-1
1479	Revenue Bond: Water/Sewer	2003	Special Legislation
1480	Administration: Salaries	05/05/03	Section 1-3-1
1481	G.O. Bonds	2003	Special Legislation
1482	Offenses: Open Burning	09/02/03	Section 27-8-3(A)(3)
1483	Motor Vehicles: Stop Signs	09/02/03	Ch. 24; Schd. "A"
1484	Taxation: Simplified Telecommunications	09/20/03	Ch. 36; Art. II
1485	Utilities: Tap Fees	10/20/03	Secs. 38-4-10; 38-5-28
1486	Public Safety: Police Officers	11/03/03	Ch. 30; Art. II; Div. III
1487	Offenses: Loitering	11/03/03	Section 27-4-4(B)(2)(e)
1488	Motor Vehicles: Speed Restriction	11/03/03	Ch. 24; Schd. "D"
1489	Zoning: Area & Bulk Regulations	11/03/03	Ch. 40; Schd. 14
1490	Tax Levy	2003	Special Legislation
1491	Vacation of Street	2003	Special Legislation
1492	Lake Carlville: Duck Hunting	12/01/03	Section 19-2-12
1492A	Employees: Residency	01/20/04	Section 13-1-4
1493	Administration: Salaries	05/17/04	Section 1-3-1
1494	Public Safety: MABAS Agreement	05/03/04	Section 30-2-36
1495	Administration: Ethics Act	05/17/04	Ch. 1; Art. VI
1496	Purchase of Real Estate	2004	Special Legislation
1497	Motor Vehicles: No Parking	08/02/04	Ch. 24; Schd. "E"
1498	Public Safety: Fire Department	06/07/04	Section 30-3-22
1499	Vacation of Street	2004	Special Legislation
1500	Motor Vehicles: Speed Limit	09/07/04	Ch. 24; Schd. "D"
1501	Vacation of Alley	2004	Special Legislation
1502	Zoning: Mobile Homes	10/04/04	Section 40-4-13(B)
1503	Cable TV	11/15/04	Chapter 8
1504	Tax Levy	2004	Special Legislation
1505	Annual Budget	2004	Special Legislation
1506	Zoning: Adult Businesses	02/07/05	Chapter 40
1507	Vacation of Street	2005	Special Legislation
1508	Annexation	2005	Special Legislation
1509	Vacation of Street	2005	Special Legislation
1510	Parks: Recreation Board	04/04/05	Ch. 28; Art. II

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1511	Zoning: Rezoning: Wal-Mart Stores Inc	04/04/05	Special Legislation
1512	Vacation of Moore Street	05/02/05	Special Legislation
1513	Development Agreement with Wal-Mart	04/18/05	Special Legislation
1513A	Administration: Salaries	05/16/05	Section 1-3-1
1514	Motor Vehicles: Stop Signs	10/17/05	Ch. 24; Schd. "A"
1515	Adoption of GASBE	06/20/05	Special Legislation
1516	Liquor	12/05/05	Secs. 21-3-20; 21-3-21; 21-3-33
1517	Motor Vehicles: Stop Signs	12/19/05	Ch. 24; Schd. "A"
1518	Motor Vehicles: Stop Signs	12/19/05	Ch. 24; Schd. "A"
1519	Tax Levy	12/19/05	Special Legislation
1520	Acquire Right-of-Way	12/19/05	Special Legislation
1521	Intersection Improvements	02/06/06	Special Legislation
1522R	IL Public Risk Fund	03/20/06	Resolution
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1524	Zoning Code	04/03/06	Chapter 40
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1526	Administration: Committees	07/03/06	Section 1-2-5(A)
1527	Motor Vehicles: Stop Signs	07/17/06	Ch. 24; Schd. "A"
1528	Indemnity Agreement with Wal-Mart	09/18/06	Special Legislation
1529	Tax Levy	11/06/06	Special Legislation
1530	Vacating West & Drum Street	11/20/06	Special Legislation
1531	Boards: Foreign Fire Insurance Board	11/20/06	Ch. 4; Art. IV
1532	Tax Levy	12/04/06	Special Legislation
1533	Buildings: Flood Plain	12/04/06	Ch. 6; Art. I
1534	Revised Budget	12/04/06	Special Legislation
1535	Acquire Right-of-Way	01/02/07	Special Legislation
1536	Acquire Right-of-Way	01/02/07	Special Legislation
1537	Acquire Right-of-Way	01/02/07	Special Legislation
1538	Acquire Right-of-Way	01/02/07	Special Legislation
1539	Annex Property	02/15/07	Special Legislation
1540	Annex Property	02/15/07	Special Legislation
1541	Motor Vehicles: Stop Signs	03/19/07	Ch. 24; Schd. "A"
1542	Lake Carlerville: Rules	03/19/07	Sec. 19-1-21(F)(G) (H)(I)
1543R	Administration: Chief Deputy City Clerk	04/16/07	Resolution
1544	Vacate Part Oak Street	05/21/07	Special Legislation
1545	Administration: Salaries	05/21/07	Section 1-3-1
1546	Vacate Moore Street	05/21/07	Special Legislation
1547	Administration: Salaries	06/18/07	Section 1-3-1
1548	Acquire Right-of-Way	06/18/07	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1549	Prevailing Wage	07/16/07	Special Legislation
1550	Motor Vehicles: Stop Signs	09/04/07	Ch. 24; Schd. "A"
1551	Budget	09/04/07	Special Legislation
1552	Budget Revision	09/17/07	Special Legislation
1553	Motor Vehicles: Parking	10/01/07	Section 24-9-6
1554	Acquire Right-of-Way	10/01/07	Special Legislatoin
1555	Lake Carlerville: Blinds	10/15/07	Section 19-2-18
1556	Animal	10/15/07	Chapter 3
1557	Resolution: Cable TV	10/15/07	Special Legislation
1558	Resolution: File of Life Foundation	11/05/07	Special Legislation
1559	Quonset Hut Lease	11/19/07	Special Legislation
1560	Tax Levy	12/03/07	Special Legislation
1561	Annexation	01/07/08	Special Legislation
1562	Annexation	01/07/08	Special Legislation
1563	Annexation	01/07/08	Special Legislation
1564	Zoning Code	01/21/08	Secs. 40-2-2; 40-4-3(H); 40-4-5(B)(4); 40-4-7; 40-4-18; 40-9-2(J); 40-9-3; 40-9-5; Schd. 40-3-19
1565	Lake Carlerville: Regulations	02/18/08	Secs. 19-1-7' 19-1-11(A)(1); 19-1-12; 19-1-20(A); 19-1-20(E); 19-1-21(F)(G); 19-2-12
1566	Motor Vehicles: Speed Limit	05/05/08	Ch. 24; Schd. "D"
1567	Budget	04/21/08	Special Legislation
1568	Motor Vehicles: Stop Signs	05/19/08	Ch. 24; Schd. "A"
1569	Administration: Salaries	05/19/08	Section 1-3-1
1570	Motor Vehicles: Speed Zones	06/16/08	Ch. 24; Schd. "D"
1571	Zoning Code: Schedule	06/16/08	Ch. 40; Schd. 40-3-19
1572	Prevailing Wage	07/21/08	Special Legislation
1573	Zoning Code: Fees	08/04/08	Secs. 40-9-3; 40-9-5
1574	Annexation	10/06/08	Special Legislation
1575	Animals	10/20/08	Chapter 3
1576	Administration: Salaries	10/20/08	Section 1-3-1(F)
1577	Administration: IMRF	10/20/08	Section 1-2-33(C)
1578	Administration: Salaries	10/20/08	Section 1-3-1(C)
1579	Illinois Power: Gas Contract	11/17/08	Ch. 14; Exhibit "A"
1580	Illinois Power: Electric Contract	11/17/08	Ch. 14; Exhibit "B"
1581	Tax Levy	12/01/08	Special Legislation
1582	Administration: Committees	12/01/08	Section 1-2-5(A)

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1584	Motor Vehicles: Stop Signs	01/05/09	Ch. 24; Schd. "A"
1585	Lake Carlenville	03/16/09	Secs. 19-1-21(F); 19-1-42
1586	Zoning Code	03/16/09	Secs. 40-2-2; 40-9-2; 40-9-3
1587	TIF: Interested Parties	04/20/09	Chapter 35
1589	Prevailing Wage	06/15/09	Special Legislation
1590	Administration: Salaries	07/20/09	Section 1-3-3
1591	Administration: Salaries	07/20/09	Section 1-3-2
1592	Administration: Salaries	07/20/09	Section 1-3-1
1593	Animals: Running at Large	07/20/09	Section 3-1-4(A)
1594	Administration: Salaries	08/03/09	Section 1-3-2
1595	Administration: Salaries	08/03/09	Section 1-3-3
1596	Annexation	10/05/09	Special Legislation
1597	Tax Levy	12/07/09	Special Legislation
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1599	TIF	12/21/09	Special Legislation
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1628	Liquor: Licenses	04/04/11	Section 21-2-6
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1630	Liquor: License Fees	05/02/11	Section 21-2-5
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1637	Taxation: Hotel Tax	06/06/11	Section 36-3-8
1638	Lease of Demuzio Center	06/20/11	Special Legislation
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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 Carlinville**". 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 MACOUPIN) ss. **CITY CLERK'S OFFICE**
CITY OF CARLINVILLE)

I, Carla Brockmeier, City Clerk of the **City of Carlinville, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the City of Carlinville, Illinois of 2019**, published by authority of the City Council were duly passed by the City Council of the **City of Carlinville, 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 Carlinville, Illinois**, this _____ day of _____, 2019.

CARLA BROCKMEIER
CITY CLERK
CITY OF CARLINVILLE

(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 Carlinville, Illinois.

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

"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 Macoupin**.

"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 **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense**.

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

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

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

(E) **Guilty Plea – No Court Appearance.** All municipal ordinance offenses may be satisfied without a court appearance by written plea of guilty and payment of the minimum fine, plus court costs, unless a court appearance is required by the ordinance violated. **(65 ILCS 5/1-2-7 and 5/1-2-8)**

(F) **Community Service.** A penalty imposed for the violation of any section of this Code may include, or consist of, a requirement that the defendant perform some reasonable public service work such as but not limited to the picking up of litter in public parks or along public highways or the maintenance of public facilities.

1-1-21 MINOR VIOLATIONS PENALTY.

(A) Any person accused of a violation of any section of this Code **except Chapter 24** entitled "**Motor Vehicles**" may settle and compromise the claim by paying to the City the sum of **Fifty Dollars (\$50.00)** within **ten (10) days** from the time such alleged offense was committed or by paying to the City Clerk the sum of **Seventy-Five Dollars (\$75.00)** subsequent to said **ten (10) day period** and prior to such person being issued a complaint or notice to appear.

(B) The tickets issued under this Section shall be as a courtesy in lieu of arrest. If the person accused of this violation does not settle the claim, a complaint or notice to appear will be issued for that violation and the person shall be subject to the penalties set forth in **Section 1-1-20** of this Code.

1-1-22 SERVICE BY CERTIFIED MAIL. In all actions for violation of any municipal ordinance where the fine would not be in excess of **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)**

1-1-23 APPLICATION.

(A) The penalty provided in this Chapter shall be applicable to every section of this City Code, the same as though it were a part of each and every separate section. Any

person convicted of a violation of any section of this City Code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature or declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this City Code.

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

(C) Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this City Code, and there shall be no fine or penalty specifically declared for such breach, the provisions of this 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.

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

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

ARTICLE II - CITY OFFICIALS

DIVISION I - CITY COUNCIL

1-2-1 **CITY COUNCIL.** Commencing on the first regular or special meeting of the City Council in the month of May of 2013, whichever comes first, the City Council shall consist of the Mayor and **eight (8)** Alderpersons, **two (2)** from each of the **four (4) wards**, and their terms of office shall be for **four (4) years**, and until their successors are elected and have qualified; provided, however, any additional alderpersons, in excess of the **eight (8) alderpersons** specified above, shall be permitted to complete their terms of office as provided by applicable law. **(65 ILCS 5/3.1-10-50(D) and 5/3.1-20-10) (Ord. No. 1681; 10-01-12)**

1-2-2 **REGULAR MEETINGS.** The regular stated meetings of the City Council shall be held in the City Hall Building on the **first (1st) and third (3rd) Mondays** in each month at **6:00 P.M.** When said meeting date falls upon a legal holiday, the meeting shall be held on the next secular day at the same hour unless otherwise provided. Adjourned meetings may be held at such times as may be determined by the Council. Public notice of regular meetings shall be given in accordance with the **Meetings of Public Agencies Act of the State of Illinois, Illinois Compiled Statutes, Ch. 5, Sections 120/1 through 120/5. (65 ILCS 5/3.1-40-25) (Ord. No. 1824; 05-18-20)**

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) Public Works Committee, which will be composed of **five (5)** alderpersons (includes supervision of public works);
- (2) Finance Committee, which will be composed of **five (5)** alderpersons (includes supervision of finance, public lands, insurance, zoning, tree city, recreation board and economic development matters);

- (3) Public Safety Committee, which will be composed of **five (5)** alderpersons (includes supervision of police, fire and CEMA matters);
- (4) Lake Committee, which will be composed of **five (5)** alderpersons (includes supervision of the Carlinville Lakes).

(Ord. No. 1702; 06-03-13)

- (B) The committees shall be appointed annually by the Mayor.
- (C) The Mayor shall be ex-officio member of each and every standing committee.
- (D) So far as practicable, the reports of committees shall be in writing.
- (E) As provided by law, any report of a committee of the City 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 5/3-11-16)**
- (F) 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.
- (G) All committee meetings are subject to the Open Meetings Act requirements and minutes shall be taken. **(5 ILCS 120/1 and 120/2.06)**

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

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

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

1-2-7 **COMPELLING ATTENDANCE.** It shall be the duty of each and all Aldermen to attend all regular meetings of the City Council and all special meetings when each has been duly notified of the date and place of such meeting. If, at any special meeting duly called, a quorum is not present, the Aldermen in attendance may adjourn the same to some stated time. Any Alderman duly notified in writing by the City Clerk of the time and place of such adjourned meeting and any Alderman who may have been present when such adjournment was had who fails to attend the same shall be fined **Fifteen Dollars (\$15.00)** for each of such adjourned meetings as he failed to attend; provided that the foregoing shall not apply when any Alderman is absent from such meeting or meetings because of sickness or unavoidable accident. **(65 ILCS 5/3.1-40-20)**

1-2-8 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 **Twenty-Five Dollars (\$25.00)** 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.]

1-2-9 SMOKING AND CHEWING PROHIBITED DURING MEETINGS.

(A) No person, including City officers and officials, shall ignited, burn or in any manner smoke any tobacco product, e-cigarettes or other smoking herbs or vaping in the chambers of the City Council during any regular or special meeting of the City Council. Also, no person, including City officers and officials, shall in any manner chew any tobacco product in the chambers of the City Council during any regular or special meeting of the City Council. Any person violating this Section shall be guilty of a misdemeanor and shall be fined in a sum not to exceed **Seven Hundred Fifty Dollars (\$750.00)** for any one offense.

(B) Smoking herbs as used herein shall mean all substance of plant or animal origin and their derivatives, including but not limited to, broom, calea California poppy, damiana hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce which are processed or sold primarily for use as smoking materials.

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.** Members of the public shall be permitted an opportunity to address public officials at City Council meetings and other City meetings pursuant to the rules set forth herein. Members of the public shall be permitted to address those City bodies as follows:

- (1) With the approval of the presiding officer or approval of a majority of the City Council members present at the meeting;
- (2) Upon recognition by the presiding officer during a public hearing provided comments and questions shall be limited to the purpose and scope of the public hearing; or
- (3) Upon recognition by the presiding officer during the public comment portion of the meeting.

Each member of the public addressing those City bodies shall give his or her name in an audible tone of voice for the record. At any such meeting, public discussion on any one issue among members of the public (not including City Council members or the Mayor) shall be limited to **thirty (30) minutes**. Any member of the public desiring to speak during such public discussions shall be limited to **five (5) minutes**, unless further time is approved by the presiding officer or a majority of the City Council members present at the meeting. All statements from members of the public shall be addressed to the corporate authorities or body and not to any member thereof. No person, other than the presiding officer or City Council member, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer. Any member of the public who violates this rule or engages in disruptive conduct during any such City meeting may be removed from the meeting at the direction of the presiding officer. **(Ord. No. 1650; 11-21-11)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Q) **Announcement and Changes of Vote.** The result of all votes by yeas and nays shall not be announced by the Clerk, but shall be handed to the chairman for

announcement, and no vote shall be changed after the tally list has passed from the hands of the Clerk.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other than a Motion to Reconsider specifically authorized in this Section, no Ordinance, Resolution or Motion, once voted upon by the City Council, shall be brought before the City Council prior to the expiration of **six (6) months** immediately following the vote thereon unless by a vote of **two-thirds (2/3)** of the Aldermen then holding office, a Motion is passed to re-vote on the said Ordinance, Resolution or Motion. This requirement in this rule shall be applicable on and/or with respect to Ordinances, Resolutions or Motions voted on by the City Council subsequent to the effective date of this Code. **(Ord. No. 1349; 09-16-96)**

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

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

(DD) **Censure of Aldermen - Expulsion of Aldermen.** Any Alderman acting or appearing in a lewd or disgraceful manner, or who uses opprobrious, obscene and

insulting language to or about any member of the Council, or who does not obey the order of the Chair, shall be, on motion, censured by a majority vote of the members present, or expelled by a **two-thirds (2/3)** vote of all Aldermen elected. **(65 ILCS 5/3.1-40-15)**

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

1-2-13 **ADDRESS BY NON-MEMBERS.**

(A) **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)**

(B) 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 expressly 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)**

ED. NOTE ON VOTING: **An Alderman is required to vote on a motion, resolution, or ordinance.**

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."

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

DIVISION IV - GENERAL PROVISIONS

1-2-19 **CORPORATE SEAL.**

(A) The seal provided by the Council, consisting of the inscription, "**City of Carlinville, Illinois, Re-organized, 1887**" around the outer edge of the seal and in the center the words "**Incorporated & SEAL**" and the figure "**1829**" shall be and hereby is established and declared to be the seal of the City of Carlinville, 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 1-3-24)

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

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

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

1-2-26 LIABILITY INSURANCE.

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

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

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

1-2-27 BIDDING AND CONTRACT PROCEDURES.

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

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

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

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

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

(F) **Bid Opening Procedure.**

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

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

(3) **Tabulation.** A tabulation of all bids received shall be made by the City Council 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 SALARIES REGULATION.

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

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

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

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

1-2-29 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 Friday preceding the second regular monthly meeting** and shall be referred to the City Clerk. All such claims must be in writing and items shall be specified.

(B) **Exception.** This Section 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.

1-2-30 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)**

1-2-31 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 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 opening meeting of the City Council.

(C) The City shall only reimburse travel, meal, and lodging expenses incurred by its employees and officers (other than elected official) 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.

(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 the reimbursement.

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

1-2-32 **OFFICIAL RECORDS.** All official records, including the Corporate Seal, shall be kept in the City Hall.

1-2-33 **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.

1-2-34 **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) **Contributions.** Employee contributions to the Illinois Municipal Retirement Fund shall be paid by the City on behalf of all employees enrolled in the Fund. Anything in the City Code or any subsequent amendments thereto to the contrary notwithstanding, the payment shall be made by reducing the amount of the gross earnings payable to employees and enrolled elected City officials, by the amount of the contributions and making payment of this amount directly to the Fund. (**Ord. No. 1577; 10-20-08**)

(D) **Coverage.** To be eligible to be included in the I.M.R.F. a person shall have to work a minimum of **one thousand (1,000) hours** per year.

1-2-35 **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)**

1-2-36 **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.

1-2-37 **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)**

1-2-38 **USE OF CITY VEHICLES.** Employees shall only use City vehicles when engaged in City business and shall not use City vehicles for private or unauthorized purposes. Employees, who are paid in hourly wages, shall not use City vehicles at any time, when the employees are not clocked in on the City employment time clock. **(Ord. No. 1657; 02-06-12)**

1-2-39 **BUDGET SYSTEM ADOPTED.**
(A) **Established.** It is hereby determined to be in the best interests of the public welfare for this municipality to adopt the budget procedure established by law in order to be able to more efficiently keep track of expenditures throughout the year.

(B) **Adoption by Reference.** Sections 8-2-9.1 through 8-2-9.10 of Chapter 65 of the Illinois Compiled Statutes pertaining to a budget procedure are hereby adopted by the City, and the procedures set forth therein shall be followed by the City in adopting an annual budget. **(Ord. No. 1476; 03-17-02)**

1-2-40 - 1-2-41 **RESERVED.**

DIVISION V - VACANCIES

1-2-42 **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 1-2-46**, 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.

1-2-43 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.

1-2-44 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 1-2-46 or 1-2-47.**

(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.

1-2-45 ELECTION OF AN ACTING MAYOR. The election of an acting Mayor pursuant to **Section 1-2-47 or 1-2-48** 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.

1-2-46 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.

1-2-47 **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 1-2-45**, 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 1-2-46**.

(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.

1-2-48 **VACANCIES DUE TO ELECTION BEING DECLARED VOID.** In cases of vacancies arising by reason of an election being declared void pursuant to **Section 1-2-44(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.

1-2-49 **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)

ARTICLE III - OFFICIALS

DIVISION I - MAYOR

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

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

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

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

1-3-3 **CHIEF EXECUTIVE OFFICER.**

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

1-3-4 **MAYOR'S SIGNATURE.**

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

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

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

1-3-5 APPOINTMENT OF OFFICERS.

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

(B) **Filling Vacancies.** The Mayor shall appoint, by and with the advice and consent of the City Council, all officers of the City whose appointment will not otherwise be provided for by law; and whenever a vacancy shall occur in any office, which by law or ordinance the Mayor is empowered and required to fill, the Mayor shall, at the next regular meeting of the City Council, communicate to it the name of the appointee to such office and pending the concurrence of the City Council in such appointment, the Mayor may designate some suitable person to discharge the functions of such office. **(50 ILCS 105/2)**

1-3-6 SUPERVISE CONDUCT OF OFFICERS; REMOVAL OF OFFICERS.

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

1-3-7 DESIGNATION OF OFFICERS' DUTIES.

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

1-3-8 FORMAL OCCASIONS.

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

1-3-9 GENERAL DUTIES.

The Mayor shall perform all the duties which are prescribed by law and shall take care that the laws and ordinances are faithfully executed.

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

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

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

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

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

(A) Where the vote of the Aldermen has resulted in a tie; or

(B) Where one-half of the Aldermen elected have voted in favor of an ordinance, resolution or motion, even though there is no tie; or

(C) Where a vote greater than a majority of the corporate authorities is required by the Illinois Compiled Statutes to adopt an ordinance, resolution or motion.

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

1-3-14 - 1-3-15 RESERVED.

DIVISION II - CITY CLERK

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

1-3-17 FINANCE COMMITTEE. The Clerk shall, under the direction of the Finance Committee, open and keep a complete set of books in which, among other things, shall be set forth the appropriations of the fiscal year for each distinct object and branch of expenditure, and also the receipts from each and every source of revenue so far as he can ascertain the same.

1-3-18 **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)**

1-3-19 **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. **(See 65 ILCS Sec. 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)**

1-3-20 **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)**

1-3-21 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.

1-3-22 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.

1-3-23 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.

1-3-24 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)**

1-3-25 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)**

1-3-26 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.

1-3-27 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)**

1-3-28 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.

1-3-29 **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.

1-3-30 **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)**

1-3-31 **SUBMIT APPROPRIATION TO CITY COUNCIL.** The City Clerk shall, on or before **May 15th** 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. In the report, he shall 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 **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)

1-3-33 **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 City Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

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

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

(D) Each City Treasurer may:

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

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

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

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

- (1) United Community Bank, Carlinville, IL
- (2) Bank and Trust Company, Carlinville, IL
- (3) CNB Bank and Trust N.A., Carlinville, IL
- (4) US Bank, Carlinville, IL

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 **DUTIES.**

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

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

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

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

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

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

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

1-3-50 - 1-3-53 RESERVED.

DIVISION V - SUPERINTENDENT OF PUBLIC WORKS

1-3-54 ALTERNATIVE ADMINISTRATION. In lieu of the provisions of this Division, the corporate authorities may retain an approved licensed contractor to carry out the responsibilities of this Division.

1-3-55 - 1-3-63 RESERVED.

(Ord. No. 1465; 08-19-02)

DIVISION VI - RESERVED

DIVISION VI - CITY ENGINEER

1-3-64 **APPOINTMENT.** With the advice and consent of the City Council, the Mayor may appoint an engineer for the City, who shall serve for the term of the Mayor or for such period not exceeding the term of the Mayor, as may be designated by the Mayor and City Council.

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

DIVISION VII – BUDGET OFFICER

1-3-66 **OFFICE ESTABLISHED.** There is hereby established the office of Budget Officer, who shall be appointed by the Mayor with the advice and consent of the City Council.

1-3-67 **POWERS AND DUTIES.** The Budget Officer shall have the following powers and duties:

(A) Permit and encourage and establish the use of efficient planning, budgeting, auditing, reporting, accounting, and other fiscal management procedures in all City departments, commissions and boards.

(B) Compile an annual budget in accordance with **65 ILCS 5/8-2-93.**

(C) Examine all books and records of all City departments, commissions and boards which relate to monies received by the City, City departments, commissions and boards, and paid out by the City, City departments, commissions and boards, debts and accounts receivable, amounts owed by or to the City, City departments, commissions and boards.

(D) Obtain such additional information from the City, City departments, commissions and boards as may be useful to the budget officer for the purposes of compiling a City budget, such information to be furnished by the City, City departments, commissions and boards in the form required by the Budget Officer. Any department, commission or board which refuses to make such information as is requested of it available to the Budget Officer shall not be permitted to make expenditures under any subsequent budget for the City until such City department, commission or board shall comply in full with the request of the Budget Officer.

(E) Establish and maintain such procedures as shall insure that no expenditures are made by the City, City departments, commissions or board except as authorized by the budget. **(See 65 ILCS 5/8-2-9.2)**

ARTICLE IV - SALARIES

1-4-1 SALARIES OF CITY OFFICIALS. Except as hereinafter provided, the wages and salaries as of **May 1, 2022**, of the hereinafter named City officers and employees shall be as follows:

<u>Position</u>	<u>Salaries or Wages</u>
Aldermen	\$275.00 per month; \$60.00 allowance per month
Mayor	\$250.00 per week; \$100.00 allowance per month
City Clerk	\$52,000.00 per year effective May, 2021 (Ord. No. 1826; 10-05-20)
City Treasurer	\$200.00 per week, \$50.00 per month for expenses
Budget Officer	\$15,000 per year
City Attorney	\$600.00 per month (retainer) plus \$225.00 per hour
Zoning Administrator	\$40,000.00 per year
Chief of Police	\$69,000.00 per year
Part-Time Police officers without certification	\$18.00 per hour
Part-Time officers with certification	\$19.00 per hour
Part-Time dispatcher (less than 1 year of employment)	\$15.00 per hour
(1 year or more of employment)	\$16.00 per hour
IT Coordinator	\$200.00 per month
CEMA Coordinator	\$400.00 per month
CEMA Assistant Coordinator	\$250.00 per month
Lake Manager	\$23,000.00 per year
Lake Co-Host	\$12.00/14.00 per hour
Deputy City Clerk	\$16.09 per hour; \$250.00 allowance per month for zoning

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

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

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

(Ord. No. 1836; 05-02-22)

ARTICLE V - WARDS

1-5-1 **WARD BOUNDARIES.** The City shall be and the same is hereby declared to be laid off and divided into **four (4) Wards** in the manner following:

(A) **First Ward.** All that portion of the City, beginning at the intersection of Broad Street and Nicholas Street; thence easterly along Nicholas Street to the easterly City Limits; thence southerly along the most easterly part of the City Limits to Illinois Route 108 East; thence westerly along Illinois Route 108 East to Broad Street; thence northerly along Broad Street to the place of beginning.

(B) **Second Ward.** All that part of the City which lies southerly of the following boundary line: beginning at the point where Illinois Route 108 East intersects the most easterly part of the City Limits adjoining said Route; thence westerly along Illinois Route 108 East to Broad Street to Mulberry Street; thence westerly on Mulberry Street to the Union Pacific railroad tracks; thence southwesterly along the Union Pacific railroad tracks to a point beyond the most southerly point of the City Limits.

(C) **Third Ward.** All that part of the City which lies westerly of the following boundary line: beginning at the intersection of Loveless Street and Oak Street; thence southerly along Oak Street to Breckenridge Street; thence easterly along the northerly boundary line of Breckenridge Street and the easterly extension of the northerly boundary of Breckenridge Street to Broad Street; thence southerly on Broad Street to Mulberry Street; thence westerly on Mulberry Street to the Union Pacific railroad tracks; thence southwesterly along the Union Pacific railroad tracks to a point beyond the most southerly point of the City Limits.

(D) **Fourth Ward.** All that part of the City which lies northerly of the following boundary line: beginning at a intersection of Loveless Street and Oak Street; thence southerly on Oak Street to Breckenridge Street; thence easterly along the northerly boundary line of Breckenridge Street and the easterly extension of the northerly boundary line of Breckenridge Street to Broad Street; thence southerly on Broad Street to Nicholas Street; thence easterly on Nicholas Street to the easterly City Limits.

(Ord. No. 1680; 10-01-12)

ARTICLE VI – MEETING PROCEDURES

DIVISION I – RECORDING CLOSED MEETINGS

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

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

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

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

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

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

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

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

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

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

DIVISION II – REMOTE MEETING PARTICIPATION

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

1-6-12 **DEFINITION OF MEETING.** The term "meeting" shall mean "any gathering, whether in person or by video or audio conference, telephone calls, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other

means of contemporary interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business” or such other definition as shall be contained within the state statutes.

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

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

ADDENDUM "A"

GOVERNMENTAL UNIT REMOTE ATTENDANCE POLICY

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

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

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

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

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

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

ADDENDUM "B"

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

NAME OF APPLICANT: _____

NAME OF COMPANION: _____

ADDRESS: _____

TELEPHONE: _____ CELL NO.: _____

DATE OF NEEDED AUXILIARY AID OR SERVICE: _____

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

DATE: _____ SIGNED: _____

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

ADDENDUM "C"

TRAVEL, MEAL, AND LODGING EXPENSE REIMBURSEMENT REQUEST FORM

Before an expense for travel, meals, or lodging may be approved under the City Code **Section 1-2-31**, the following minimum documentation must first be submitted, in writing, to the corporate authorities of this City:

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

Name of the Employee or Officer

Job Title/Office

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

Name of Event or Program

Date(s) of Event or Program

Location of Event or Program

Purpose of Event or Program

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

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

Employee/Officer Signature

Date

CHAPTER 3 - ANIMALS

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CHAPTER 3

ANIMALS

ARTICLE I – GENERAL REGULATIONS

DIVISION I - GENERALLY

3-1-1 **DEFINITIONS.** As used in this Article, the following terms shall mean as indicated below:

"ACT": The Animal Control Act, **510 ILCS 5/1 through 5/27**, as amended.

"ADMINISTRATOR": Chief of Police of Carlinville, Illinois.

"ANIMAL": Any animal, both domestic and wild, other than man, which may be affected by rabies.

"ANIMAL CONTROL WARDEN": Persons appointed by the Administrator to perform duties assigned by the Administrator set forth in this Chapter.

"ANIMAL CONTROL FACILITY": May be used interchangeably and mean any facility approved by the Administrator for the purpose of enforcing the Animal Control Act, and Humane Control of Animals Act and used as a shelter for seized, stray, homeless, abandoned or unwanted dogs or other animals.

"AT LARGE": Any dog or cat shall be deemed to be at large when it is off the premises of its owner's real property and not restrained by a competent person.

"BREEDABLE FEMALES": Any dog or cat that is **six (6) months** or older and is not spayed.

"CAT": All domestic members of the family *Felis catus domesticus*.

"COMPETENT PERSON": A human being over the age of **fifteen (15) years** that is capable of controlling and governing the dog or cat in question, and to whose commands the dog or cat is obedient.

"CONFINED": The 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.

"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 a companion animal, or

(B) a dog that, without justification bites a person and does not cause serious injury.

(510 ILCS 5/2.052A)

"DEPARTMENT": The Department of Agriculture of the State of Illinois.

"DEPUTY ADMINISTRATOR": Member of the Carlinville Police Department and member of other law enforcement agencies appointed by Chief of Police.

"DIRECTOR": The Director of the Department of Agriculture of the State or his duly appointed representative.

"DOG": All domestic member of the family *Canis familiaris*.

"DWELLING UNIT": A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

"ENCLOSURE": 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 which may be taken by the owner or keeper, such as tethering of a vicious dog within the enclosure. Such 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. Such enclosure must be approved by the Administrator.

"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": Has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded or pierced. The phrase further includes contact of saliva with any break or abrasion of the skin.

"HUMANELY DISPATCHED": The painless administration of a lethal dose of an agent which shall cause the painless death of an animal as prescribed in the Journal of the American Veterinary Medical Association, January, 15, 1993. Said methods shall not destroy brain tissue necessary for laboratory examination for rabies. Animals shall be handled prior to administration of the agent in such a manner as to avoid undue apprehension by the animal.

"IMPOUNDED": Taken into the custody of the public animal control facility in the city, town or county where the animal is found.

"INOCULATION AGAINST RABIES": The injection of an anti-rabies vaccine approved by the Department.

"INTACT ANIMAL": An animal that has not been spayed or neutered.

"KITTENS": All domestic members of the family *Felis catus domesticus*, male or female, under the age of **four (4) months**.

"LEASH": 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.

"LICENSED VETERINARIAN": A veterinarian licensed by the state in which he engages in the practice of veterinary medicine.

"MULTIPLE PET OWNER": Any person who harbors more than **five (5)** dogs or cats, or any combination thereof, over **four (4) months** of age on their property or in their dwelling unit.

"OWNER": A person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care, or acts as its custodian, or who knowingly permits a domestic animal to remain on or about any premises occupied by him or her.

"PERSON": Any individual, firm, corporation, partnership, society, association or other legal entity, any public or private institution, the State of Illinois, municipal corporation or political subdivision of the state, or any other business unit.

"PHYSICAL INJURY": The impairment of physical condition.

"PUPPY": All members of the family *Canis familiaris*, whether male or female, under **four (4) months** of age.

"REGISTRATION CERTIFICATE": A printed form prescribed by the Department for the purpose of recording pertinent information as required by the Department under this Act.

"RESTRAINT": An owned animal, off the premises of its owner's real property, is under restraint within the meaning of this Chapter.

- (A) If it is controlled by a line or leash not more than **six (6) feet** in length when said line or leash is held by a competent person;
- (B) Controlled by a leash of **fifty (50) feet** or less during training session conducted by a competent person;
- (C) When within a vehicle being driven, parked or stopped; or
- (D) Confined in a cage or other animal carrier;
- (E) While utilized in the sport of hunting.

"RURAL": The unincorporated area of the County which has not been subdivided for residential purposes.

"SERIOUS PHYSICAL INJURY": A physical injury that creates a substantial risk of death or that causes death, serious or protracted disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

"SHELTER": A structure which has **four (4) sides**, a roof, floor, bedding. The shelter shall be of sufficient size to permit such animal to stand up and turn around inside when fully grown

and allow retention of body heat. The shelter shall be placed to provide shade from the sun and protection from the weather.

"STERILIZED": The surgical spay of a female animal or castration of a male animal, so as to render such animal incapable of reproducing.

"STRAY": An animal which is straying as defined in this Chapter.

"STRAYING": A dog or other animal not on the premises of the owner or not confined or under control by leash or other recognized control methods as set forth in 8 Ill. Adm. Code 30.140(b)(1), (2) and (3) in the Animal Control Act.

"TAG": A serially numbered medallion approved by the Department to be issued, at a fee set by the County Board, as evidence of inoculation against rabies.

"VICIOUS DOG": A dog that bites a person, attacks a person or causes physical injury, serious physical injury or death to a person or a companion animal or any individual dog that has been found to be a "dangerous dog" upon **three (3)** separate occasions.

"WILD ANIMAL": A wolf, coyote, or the offspring of a mating between a wolf or coyote and a dog (hybrid names: coydog or wolf hybrid). There is no recognized vaccine approved for use on wild animals; therefore, wild animals shall not be vaccinated against rabies and will be impounded for no rabies vaccination.

3-1-2 ADMINISTRATOR. The Chief of Police shall serve as Administrator and may appoint members of the Carlinville Police Department, other employees of the City, or members of other law enforcement agencies as Deputy Administrators and Animal Control Wardens.

3-1-3 ENFORCEMENT. It is the duty of the Administrator, subject to the general supervision and regulations of the Department, to enforce the provisions of this Chapter. The Administrator, his/her deputies and Animal Control Wardens are, in accordance with the Act and for the purpose of enforcing it clothed with power of the police officers in the City and within such City are peace officers in the enforcement of the provisions of the Act, including issuance and service of citations and orders, and, as such peace officers have the power to make arrests on view or on warrants for violation of the Act, and to execute and serve all warrants and processes issued by any circuit court.

3-1-4 ANIMALS RUNNING AT LARGE.
(A) Every owner of an animal shall contain such animal to the confines of the owner's real property, unless the animal is under restraint, and shall not permit such animal to be at large. Any animal found running at large contrary to the provisions of this Chapter may be apprehended and impounded. For these purposes, the Administrator may utilize any existing or available animal control facility or licensed animal shelter. **(Ord. 1593; 07-20-09)**
(B) The provisions of paragraph (A) shall not apply to:
(1) Dogs being used in hunting field trial; and

- (2) Dog shows while on public lands set aside for those purposes;
- (3) Blood hounds or other dogs used for tracking in conjunction with police activities;
- (4) Dogs of the Canine Corps of any police force, the state police, any federal law enforcement agency, or the Armed Forces while being used to conduct official business or being used for official purposes.

(C) A dog found running at large to the provision of this Chapter a second or subsequent time must be spayed or neutered within **seven (7) days** at the owner's expense after being reclaimed unless already spayed or neutered; failure to comply shall result in impoundment of animal.

3-1-5 IMPOUNDMENT AND REDEMPTION.

(A) When any animal is apprehended and impounded by the Administrator or any of his/her representatives, the animal may be scanned for the presence of a microchip.

(B) The Administrator or any of his/her representatives shall give notice of not less than **seven (7) days** to the owner, if known. Such notice shall be mailed to the last known address of the owner. An affidavit or testimony of the Administrator or his deputy or agent who mails such notice shall be prima facie evidence of the receipt of such notice by the owner of such dog or cat.

(C) All animals which have been impounded in accordance with the provisions of this Article shall be humanely dispatched or disposed of by the pound as stray animals in accordance with the laws that exist, or may hereafter exist, when not redeemed by the owner within a period of not less than **five (5) days** from the date of impoundment, except on Sundays and holidays. In case the owner of the impounded animal desires to make redemption thereof, he may do so by complying with all applicable rules and regulations, and paying all the fines and costs of the animal control facility or licensed animals shelter where such animal is impounded.

3-1-6 REDEMPTION BY PERSON OTHER THAN OWNER.

(A) Upon expiration of **seven (7) days** from the date of impoundment, except Sundays and holidays, an unclaimed animal, which has been deemed suitable for adoption by the Animal Control Officer or Administrator, may be adopted by any person other than the owner upon payment to the Animal Control Officer, Administrator, or delegate the adoption fee and sterilization deposit; provided that every animal redeemed must have attached to its collar, or proof must be provided within **seventy-two (72) hours** of, the rabies registration tag of the County.

(B) No animal shall be adopted from the Animal Control Facility unless sterilized at the cost of the new owner. Any animal adopted from the Animal Control Facility shall be sterilized pursuant to an adoption agreement. Any owner who fails to sterilize his/her adopted animal pursuant to the terms of the agreement shall be in violation of the law. Ownership of any adopted animal not sterilized shall revert to the Animal Control Facility, and the animal is subject to immediate impoundment by the Animal Control Officer or Administrator.

3-1-7 RIGHT OF ENTRY; INSPECTIONS; REFUSAL TO DELIVER DOG OR OTHER ANIMAL. The Administrator, or his/her 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 by the Administrator or his/her authorized representative, 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 Chapter.

3-1-8 HARBORING STRAY ANIMAL(S) RESTRICTED. No person shall harbor, keep, care for, feed or allow to remain on their property any stray domestic animal without notifying the Administrator or any of his/her representatives within **forty-eight (48) hours.**

3-1-9 DISEASED OR INJURED ANIMALS. Any animal which does not exhibit a valid vaccination or registration tag and which reveals the symptoms of an injury or disease, clearly not those of rabies, as determined by the Administrator or his/her designated agent, may be subjected to disposal as provided in **Section 3-1-5** of this Chapter at the earliest possible time by the shelter personnel.

3-1-10 ENFORCEMENT OFFICERS NOT RESPONSIBLE FOR ACCIDENT OR DISEASE TO ANY DOG OR CAT. The Administrator, manager, administrators, animal control wardens or anyone enforcing the provisions of this Chapter shall not be held responsible for any accident or disease that may happen to any animal.

3-1-11 ANIMAL CONSIDERED A NUISANCE. No person owning, possessing or harboring any animal within the City shall permit said animal to become a nuisance. An animal, other than a dog trained for law enforcement in the performance of its duty, shall be considered a nuisance if said animal:

- (A) Substantially damages property other than the owner's.
- (B) Causes unsanitary, dangerous or unreasonably offensive conditions (This subsection does not apply to animals defined as "livestock" in Chapters 505 through 510 ILCS.)
- (C) Causes a disturbance by excessive barking, caterwauling or other noisemaking. (This subsection does not apply to animals defined as "livestock" in Chapters 505 through 510 ILCS.)
- (D) Chases vehicles.
- (E) Chases, molests, attacks, bites, interferes with or physically intimidates any person while on or off the premises of the owner.
- (F) Chases, molests, attacks, bites, or interferes with other domestic animals while off the premises of the owner.
- (G) It shall be unlawful for an owner or person in charge of a dog or other animal to fail to clean up and/or remove, as soon as possible, any excrement or droppings deposited by said dog or other animal on any public property, public right of way, or property of another. The provisions of this Section do not apply to dogs used to guide the visually impaired, or other dogs used to aid persons with disabilities while such dogs are acting in this capacity. (**Ord. No. 1736; 11-03-14**)

The Administrator or Deputy Administrator, may upon reasonable grounds, impound any animal creating a nuisance by being in violation of subsections (E) or (F) above and not be restrained by a competent person.

3-1-12 **INTERFERENCE WITH ANIMAL CONTROL PERSONNEL.** It shall be unlawful for any person to obstruct, impede or interfere with the Administrator or any of his/her delegates or the police in the performance of their duties, or to prevent or attempt to prevent the Administrator or any of his/her delegates or the police from capturing or impounding any animal within the City.

ARTICLE II - RABIES CONTROL

3-2-1 INOCULATION OF DOGS AND CATS.

(A) Every owner of a dog or cat **four (4) months** of age shall cause such dog or cat to be inoculated against rabies by a licensed veterinarian annually or at such intervals as hereafter may be promulgated by the Department. Evidence of such inoculation shall be entered upon a certificate, the form of which shall be approved by the county board, and the certificate shall be signed by the licensed veterinarian administering the vaccine.

(B) The veterinarian administering the vaccine shall cause the certificate of inoculation be distributed as follows:

- (1) **One (1) copy** shall be given to the owner at the time of inoculation;
- (2) **One (1) copy** shall be filed with the office of the Administrator, or such place as the county board shall designate, within **thirty (30) days** after the date of inoculation;
- (3) **One (1) copy** shall be retained by the veterinarian administering the inoculation for a period of **five (5) years**, or such period as set by the department or the county board.

(C) The type and brand of rabies vaccine used shall be licensed by the U.S. Department of Agriculture and approved by the department.

3-2-2 COMPLIANCE WITH CHAPTER.

(A) Every owner of a dog or cat shall comply with the provisions in this Chapter. Each day a person fails to comply constitutes a separate offense. If an animal is not inoculated and registered after its owner has been found to be in violation of this Section or sections on (1) inoculation tags; (2) confinement of animal which has bitten someone; or (3) duties of owners of rabid or biting animals, **two (2) times** within a **twelve (12) month** period, said animal shall be impounded by the Administrator or his/her delegate and may be redeemed or disposed of in accordance with the provisions of this Code.

(B) Anyone that owns a dog or cat that is not vaccinated for rabies, will be issued a written warning and will be given **seven (7) days** to get the dog or cat vaccinated for rabies. If owner doesn't comply, the owner will be issued a **Fifty Dollars (\$50.00)** ticket and dog or cat will be impounded.

3-2-3 INOCULATION TAGS.

(A) The owner of a dog or cat shall, within **ten (10) days** after such dog or cat has been inoculated against rabies, procure an inoculation tag from the County. The cost of the tag shall be determine and set by the county board. The owner of a dog or cat shall cause the inoculation tag to be attached to a collar or harness to be worn by the animal whenever the animal is not confined in a secure enclosure place. Valid rabies inoculation tags and certificates from other counties shall be honored while the animals in transit or until the dog or cat owner has established residence in this County.

(B) A licensed veterinarian may procure serially numbered inoculation tags from the county, at a fee set by the board, and issue one tag with each inoculation certificate at the time of inoculation. A licensed veterinarian shall collect such tag fee from the owner at the time the inoculation tag is dispensed.

3-2-4 CONFINEMENT OF ANIMAL THAT HAS BITTEN SOMEONE.

(A) When the Administrator receives information that any person has been bitten by a dog or other animal, the Administrator, or his/her authorized representative, shall have such dog or other animal confined under the observation of the County animal control facility or at a licensed veterinarian for a period of **ten (10) days**. Such veterinarian shall report the clinical condition of the dog or other animal immediately, with confirmation in writing to the Administrator within **twenty-four (24) hours** after the dog or other animal is presented for examination, giving the owner's name, address, the date of confinement, the breed, description, age and sex of such dog or other animal, on appropriate forms approved by the Department. The Administrator shall notify the attending physician or responsible health agency. At the end of the confinement period, the veterinarian shall submit a written report to the Administrator advising him/her of the final disposition of such dog or other animal on appropriate forms approved by the Department.

(B) When evidence is presented that such dog or other animal was inoculated against rabies within the time prescribed by law, it may be confined in the house of its owner, or in a manner which will prohibit it from biting any person for a period of **ten (10) days**, if the Administrator adjudges such confinement satisfactory. At the end of the confinement period, such dog or other animal shall be examined by the Administrator, or another licensed veterinarian.

3-2-5 DUTIES OF OWNERS OF RABID OR BITING ANIMALS.

(A) The owners of any dog or other animal which exhibits symptoms of rabies and any dog or other animal in direct contact with such dog or other animal, whether or not such dog or other animal has been vaccinated, shall immediately notify the Administrator, and shall promptly confine such dog or other animal, or have it confined, under suitable observation, for a period of at least **ten (10) days**, unless officially authorized by the Administrator, in writing, to release it sooner.

(B) It is unlawful for any person having knowledge that any person has been bitten by a dog or other animal to refuse to notify the Administrator promptly. It is unlawful for the owner of such dog or other animal to euthanize, sell, give away, or otherwise dispose of any such dog or other animal known to have bitten a person, until it is released by the Administrator, or his/her authorized representative.

(C) It is unlawful for the owner of such dog or other animal to refuse or fail to comply with the written or printed instructions made by the Administrator, or his/her authorized representative. If such instructions cannot be delivered in person, they shall be mailed to the owner of such dog or other animal by regular mail, postage prepaid. The affidavit or testimony of the Administrator, or his authorized representative, delivering or mailing such instructions is prima facie evidence that the owner of such dog or other animal was notified of his/her responsibilities.

(D) Any expense incurred in the handling of any dog or other animal under this Section shall be borne by the owner.

(E) For the purpose of this Section, the word "immediately" means by telephone, in person, or by other than use of the mail.

(F) The owner of a biting animal must also remit to the state Department of Public Health, for the deposit into the Pet Population Control Fund, a **Twenty-Five Dollars (\$25.00)** public safety fine within **seven (7) days** after notice.

(G) Any dog or cat that bites a person may be microchipped before the animal is released to the owner or if the animal is already rabies vaccinated and quarantined at

home, the animal may be microchipped after the **ten (10) day** quarantine period is finished. The owner is responsible for the microchip expense, not to exceed **Fifteen Dollar (\$15.00)** fee. If owner doesn't comply the dog or cat will be impounded and owner charged for the impoundment fee, any boarding fees and the microchip fee.

3-2-6 **REIMBURSEMENT TO ANIMAL BITE VICTIMS.** The City is not obligated to pay to any person from any fund any amount for the purchase of human rabies antiserum, the purchase of human vaccine, any costs for the administration of the serum or vaccine or any amount for medical care, which may have been provided to human bite victims.

3-2-7 **DANGEROUS ANIMALS.** Any animal running at large within the City, whose capture endangers or threatens the safety of an animal control officer, police officer, sheriff or deputy sheriff, or endangers the safety of any person within the City, may be slain by an animal control officer, police officer, sheriff or deputy sheriff.

3-2-8 **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)**

3-2-9 **VICIOUS ANIMALS PROHIBITED.** It shall be unlawful for any person to bring or transfer into the unincorporated area of the City any dog or animal that has been declared "vicious" by any unit of local government.

ARTICLE III - VICIOUS AND DANGEROUS DOGS

3-3-1 SCOPE.

(A) In order to have a dog deemed "vicious" as defined in **Section 3-1-1** of this Chapter, the Administrator, Deputy Administrator, or law enforcement officer must give notice to the infraction that is the basis of the investigation to the owner, conduct a thorough investigation, interview any witnesses, including the owner, gather any existing medical records, veterinary medical records or behavioral evidence, and make a detailed report finding that the dog is a vicious dog, and give the report to the State's Attorney's office and the owner. The Administrator, State's Attorney, or any citizen of the County in which the dog exists may file a complaint in the circuit court in the name of the People of the State of Illinois to deem a dog to be a vicious dog. Testimony of a board certified veterinarian or another recognized expert may be relevant to the court's determination of whether the dog's behavior is justified. The petitioner must prove the dog is a vicious dog by clear and convincing evidence. The Administrator may impound said dog upon finding the dog is a vicious dog. The Administrator will determine where the animal shall be confined during the pendency of the case.

(B) A dog may not be declared vicious if the Administrator determines the conduct of the dog was justified because:

- (1) The threat, injury, or death was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the dog, or upon the property of the owner or custodian of the dog;
- (2) The injured, threatened or killed person was abusing or assaulting the dog;
- (3) No dog shall be declared vicious if it is a professionally trained dog for law enforcement in the performance of its duties. Vicious dogs shall not be classified in a manner that is specific as to breed.

(C) If the burden of proof has been met, the court shall deem the dog to be a vicious dog.

(D) No landlord or landlord's agent shall knowingly permit any tenant to move a vicious dog into or keep a vicious dog in any building or premises owned or controlled by such landlord or agent. No landlord or landlord's agent shall knowingly permit any tenant to keep a vicious dog in any building or premises owned or controlled by such landlord or agent. Any landlord or agent thereof learning of any vicious dog in any building or premises owned or controlled by such landlord or agent thereof shall notify the person having such dog to remove the dog from the premises immediately.

(E) Owner of rental property, landlord, or landlord's agent that allows or permits a vicious dog on his rental property, to stay in any of rental buildings, or helps hide a vicious dog in any of the rental buildings will be responsible for any damage that the dog may cause if the animal attacks a person or companion animal. The dog will be impounded and euthanized.

3-3-2 VICIOUS DOGS - CONTROL, IMPOUNDMENT, APPEAL.

(A) Any dog, which has been found to be a vicious dog, shall be impounded by the Administrator, animal control warden, or the law enforcement authority having jurisdiction in such area.

If a dog is found to be a vicious dog, the owner shall pay a **One Hundred Dollar (\$100.00)** public safety fine, to be deposited into the County Pet Population Control Fund, the dog shall be spayed or neutered within **ten (10) days** of the finding, at the expense of its owner, and microchipped, if not already, and the dog is subject to enclosure. If an owner fails to comply with these requirements, the animal control agency shall impound the dog and the owner shall pay a **Five Hundred Dollar (\$500.00)** fine plus impoundment fees to the animal control agency impounding the dog. The judge has the discretion to order a vicious dog be euthanized. A dog found to be a vicious dog will not be released to the owner until the Administrator, an Animal Control Warden, or the Director approves the enclosure. No owner or keeper of a vicious dog shall sell or give away the dog without approval from the administrator or court. Whenever an owner of a vicious dog relocates, he or she shall notify both the Administrator of County Animal Control where he or she has relocated and the Administrator of County Animal Control where he or she formerly resided.

(B) It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless the dog is kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are (1) if it is necessary for the owner or keeper to obtain veterinary care for the dog; (2) in the case of an emergency or natural disaster where the dog's life is threatened; or (3) to comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a leash not exceeding **six (6) feet** in length, and shall be under the direct control and supervision of the owner or keeper of the dog or muzzled in its residence.

Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the Administrator, an Animal Control Warden, or the law enforcement authority having jurisdiction in such area. 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) days**, the dog may be euthanized.

Upon filing a notice of appeal, the order of euthanasia shall be automatically stayed pending the outcome of the appeal. The owner shall bear the burden of timely notification to animal control in writing.

Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard or police owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with Section 8 of this Act. It shall be the duty of the owner of such exempted dog to notify the Administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the Administrator advised of the location where such dog will be stationed. The Administrator shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him.

(C) If the animal control agency has custody of the dog, the agency may file a petition with the court requesting that the owner be ordered to post security. The security must be in an amount sufficient to secure payment of all reasonable expenses expected to be incurred by the animal control agency or animal shelter in caring for and providing for the dog pending the determination. Reasonable expenses include, but are not limited to, estimated medical care and boarding of the animal for **thirty (30) days**. If security has been posted in accordance with this Section, the animal control agency may draw from the security the actual costs incurred by the agency in caring for the dog.

(D) Upon receipt of a petition, the court must set a hearing on the petition to be conducted within **five (5) business days** after the petition is filed. The petitioner must serve a true copy of the petition upon the defendant.

(E) If the court orders the posting of security, the security must be posted with the clerk of the court within **five (5) business days** after the hearing. If the person ordered to post security does not do so, the dog is forfeited by operation of law, and the animal control agency must dispose of the animal through adoption or humane euthanization.

3-3-3 DANGEROUS DOGS; NUISANCE; EXCEPTIONS.

(A) After a thorough investigation, including: sending notifications to the owner of the alleged infractions within **ten (10) business days**, and affording the owner an opportunity to meet with the Administrator or director prior to the making of a determination; gathering of any medical or veterinary evidence; interviewing witnesses; and making a written report, the Administrator, or his/her designee may deem a dog to be "dangerous". The owner shall be sent immediate notification of the determination by registered or certified mail that includes a description of the appeal process. A dog may not be declared dangerous if the Administrator, or his/her designee or the director determines the conduct of the dog was justified because:

- (1) The threat was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the dog;
- (2) The threatened person was abusing or assaulting the dog;
- (3) The injured, threatened or killed companion animal was attacking or threatening to attack the dog or its offspring; or
- (4) The dog was responding to pain or injury.

(B) If deemed dangerous, the Administrator, or his or her designee, or the director may order:

- (1) The dog's owner to pay a **Fifty Dollar (\$50.00)** public safety fine to be deposited into the Pet Population Control Fund.
- (2) The dog to be spayed or neutered within **seven (7) days** at the owner's expense and microchipped, if not already; and
- (3) One or more of the following as deemed appropriate under the circumstances, and necessary for the protection of the public:
 - (a) Evaluation of the dog by a certified appointed behaviorist, a board-certified veterinary behaviorist or another recognized expert in the field, and completion of training or other treatment as deemed appropriate by the expert. The owner of the dog shall be responsible for all costs associated with evaluation and training ordered under this subsection; or
 - (b) Direct supervision by an adult **eighteen (18) years** of age or older whenever the animal is on public premises.

(C) The Administrator may order a dangerous dog to be muzzled and leashed whenever it is off the owner's real property in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration.

(D) 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.

(E) All owners or keepers of dogs found to be dangerous must post in clear view at all times, and in the most conspicuous or prominent point of entry to the premises, a sign indicating dangerous dog on the premises. Such sign shall be at least **eight and one-half (8 ½) inches** by **eleven (11) inches** in size and shall contain in words and pictures, a clear indication that a dangerous dog is on the premises.

(F) The owner of a dog deemed dangerous shall supply a certificate of insurance naming the host agency in the amount of **One Hundred Thousand Dollars (\$100,000.00)**, and has to keep the insurance as long as the person owns the dog. If the owner allows the insurance to lapse, the dog will be impounded.

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

(H) The Administrator, the State's Attorney or any citizen of the County in which a dangerous dog or other animal exists may file a complaint in the name of the people of the State of Illinois 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.

(I) The Administrator or animal control officer has the right to impound a dangerous dog if the owner fails to comply with the requirement of this Section.

3-3-4 DANGEROUS DOG; APPEAL.

(A) The owner of a dog found to be a dangerous dog pursuant to this Chapter by an Administrator may file a complaint against the Administrator in the circuit court within **thirty-five (35) days** of receipt of notification of the determination, for a de novo hearing on the determination. The proceeding shall be conducted as a civil hearing pursuant to the Illinois Rules of Evidence and the Code of Civil Procedures, including the discovery provisions. After hearing both parties' evidence, the court may make a determination that the dog is a dangerous dog if the Administrator meets his or her burden of proof of clear and convincing evidence. The final order of the circuit court may be appealed pursuant to the civil appeals provision of the Illinois Supreme Court Rules.

(B) The owner of a dog found to be a dangerous dog pursuant to this Act by the director may, within **fourteen (14) days** of receipt of notification of the determination, request an administrative hearing to appeal the determination. The administrative hearing shall be conducted pursuant to the department of agriculture's rules applicable to formal administrative proceedings. An owner desiring a hearing shall make his or her request for a

hearing to the Illinois Department of Agriculture. The final administrative decision of the department may be reviewed judicially by the circuit court of the County wherein the person resides, or in the case of a corporation, the County where its registered office is located. The Administrator review law and all amendments and modifications thereof, and the rules adopted thereto, apply to and govern all proceedings for the judicial review of final administrative decisions of the department hereunder.

(C) Until the order has been reviewed and at all times during the appeal process, the owner shall comply with the requirement set forth by the Administrator, the court or the director.

ARTICLE IV - PREVENTION OF CRUELTY TO ANIMALS

3-4-1 **HUMANE CARE OF ANIMALS.** No owner shall fail to provide his/her animal(s) with:

- (A) Sufficient nutritious food;
- (B) Fresh, clean water at all times;
- (C) A shelter which has **four (4) sides**, a roof, floor and bedding. The shelter shall be of sufficient size to permit such animal to stand up and turn around inside when fully grown, and allow retention of body heat. The shelter shall be placed to provide shade from the sun and protection from the weather;
- (D) Regular and sufficient veterinary care to prevent suffering and maintain health.

3-4-2 **ABANDONMENT OF ANIMAL UNLAWFUL.** It shall be unlawful for a person to abandon any animal within the City.

3-4-3 **ACTS OF CRUELTY TO ANIMALS PROHIBITED.** Unless justifiable in defense of person or property, no person shall:

- (A) Kill, wound or attempt to kill or wound, or poison any domestic animal;
- (B) Put to death any domestic animal except by euthanasia under the supervision of a licensed veterinarian of the State of Illinois;
- (C) Beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse a domestic animal;
- (D) Cause, instigate, permit or attend any dogfight, cockfight, bullfight or other combat between animals and humans.
- (E) Crop an animal's ears, an animal's tail, or perform similar surgeries except as a licensed veterinarian of the State of Illinois;
- (F) Allow any animal to remain unattended in a motor vehicle by a competent person when the animal's life, health or safety is threatened.

3-4-4 **IMPOUNDMENT OF VICTIMIZED ANIMALS; OWNER'S APPEAL.**

(A) In the event that the Administrator, animal control warden, or any law enforcement officer finds a domestic companion animal(s) to be a victim of cruelty, neglect, or abandonment as defined by sections with animal cruelty, he/she shall have the right to forthwith remove or cause to have removed any such animal(s) to a safe place for care or to euthanize said animal(s) when necessary to prevent further suffering, all at the owner's expense. Return to the owner may be denied or withheld until the owner shall have made full payment or all expenses incurred. Treatment of an animal by any method specified herein does not relieve the owner of liability for violations and for any accrued charges.

(B) The owner of an animal that has been impounded may appeal, in writing, the impoundment to the State's Attorney within **seven (7) days** of impoundment. After proper notice, a hearing shall be held to determine if said animal was the victim of cruelty, neglect or abandonment. The State's Attorney may find that the animal is a victim of cruelty, neglect or abandonment if:

- (1) said animal was abandoned;

- (2) said animal was not provided by the owner (or agent) with sufficient water, proper food, shelter to provide protection from the weather or veterinary care to prevent suffering; or
- (3) said animal was a victim of an act cited in **Section 3-4-3** and **3-4-5**.

(C) The State's Attorney may find that the animal is a victim of cruelty, neglect, or abandonment, then he or she shall order appropriate remedies, including, but not limited to, proper veterinary care, humane destruction of the animal, or refusal to return said animal to the owner and shall assess all costs to the owner for enforcement of the appropriate remedy, and for impoundment and boarding of the animal.

(D) Any owner convicted of aggravated cruelty charges, or any of the cruelty listed in **Section 3-4-3(D)**, will not be allowed to own or reside in a household where there are any animal(s) as long as they live in the City.

(E) Anyone that violates this Section (D) will be prosecuted and the animal(s) will be impounded.

3-4-5 ANIMALS FOR USE IN ENTERTAINMENT.

(A) No person may use, own, capture, breed, train or lease any animal which he or she knows is intended for use in any show, exhibition, program or other activity featuring or otherwise involving a fight between such animal and other animal, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(B) No person shall own, possess, offer for sale, ship or transport any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program or activity featuring or otherwise involving a fight between **two (2)** or more animals or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(C) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purposes of conducting any show, exhibition, program or other activity involving a fight between **two (2)** or more animals or the intentional killing of any animal.

(D) No person shall attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between **two (2)** or more animals or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

3-4-6 SEIZURE AND DISPOSITION OF ANIMALS AND OTHER ITEMS ILLEGALLY USED IN ENTERTAINMENT.

(A) Law enforcement officers and the Administrator shall seize and impound any and all animals and seize any equipment, money or other proceeds utilized in or directly related to any violation of the sections on animals used in entertainment. Animals and other items impounded or seized shall be held for evidence and for final disposition by the court.

(B) The City shall give notice to the person from whom the animals, equipment, money or other proceeds were seized pursuant to paragraph (A) above, or to the person in possession as owner, or lessee of the premises where said items were found, or if the names of any of these persons are unknown to the City, by posting notice upon the outer door of the premises. The notice shall be directed to any person claiming interest in the property or money, to come before the Court on a specified date, not less than **three (3) days** from the

date of the notice, and to show cause, if any, why the items should not be sold at public auction as contraband or otherwise be forfeited as contraband to the City for disposition as authorized herein.

(C) If in the Court's opinion, after a full hearing, or upon the default of those notified to appear, it appears to the Court that the items seized are in fact contraband, the Court shall order disposition of said items in one or more of the following ways:

- (1) Any animal(s) forfeited under this Section shall be either humanely euthanized, offered for adoption, or otherwise disposed of in accordance with any controlling City ordinances, or provisions of state law.
- (2) Any money forfeited under this Section shall be forfeited to the City Treasury.
- (3) Any other items forfeited under this Section shall be sold at a public auction to the highest bidder for cash, and the proceeds paid to the City Treasury.
- (4) No equipment used for training, fighting or killing the animals will be sold at auction, it shall be retained and made available for use in training peace officers in detecting and identifying violations of animals used in entertainment.

3-4-7 DISEASED AND INJURED ANIMALS.

(A) No diseased or sickly horse, cow, hog, dog, cat or other animal nor any that has been exposed to any disease that is contagious among such animals shall be brought into the City unless under veterinary care.

(B) Any animal, being in any street, highway or public place within the City, appearing in the estimation of the Administrator, animal shelter manager, or animal control warden, to be injured or diseased and past recovery for any useful purpose, and not being attended and properly cared for by the owner or some proper person to have charge thereof for the owner, and not having been removed to some private premises or to some place designated by such officer or animal control officer within an hour after being found or left in such condition may be deprived of life by such officer, or as he/she may direct.

(C) No person, other than the Administrator or law enforcement officers, animal control wardens, or persons authorized by contract or otherwise, shall in any way interfere with the removal of such dead, sick or injured animal in such street or place. No person shall skin or wound such animal in any street, highway, or public place, unless to terminate its life as herein authorized, except that the owner or person having control of such animal may terminate the life thereof in the presence and by the consent of a law enforcement officer, or the Administrator, animal shelter manager or animal control warden.

3-4-8 KEEPING ANIMALS OTHER THAN DOMESTICATED PETS.

(A) No person shall keep, harbor or allow to be kept within the City any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarondi, bear, hyena, wolf, wolf-hybrid, venomous reptiles, or other creature normally wild and dangerous to human life. It is no defense to a violation of this Section that the owner or keeper of the same has attempted to domesticate it.

(B) Any of the foregoing maintained by a zoological park, animal control facility, federally licensed exhibit, veterinary hospital or educational institutions shall not be regulated by the provisions of this Chapter.

(C) No person shall keep, harbor or allow to be kept within the City any cattle, cows, horses, sheep, swine, goats, chickens, ducks, turkeys, geese or other livestock. This provision shall not apply to areas of the City that are zoned agricultural nor shall it apply to livestock brought into the City for the purpose of being shipped out of the City.

3-4-9 DEAD ANIMALS PROHIBITED. No person shall:

(A) Allow the body, or any part thereof, of any dead animal to decompose and putrefy by remaining on his property.

(B) Skin, dismember, butcher, dress, or exhibit any dead animal in view of the public in areas of the City which have been subdivided for residential purposes.

The owner of an animal shall be responsible for the immediate disposal of such animal's remains on its death from whatever cause and regardless of the location of such animal's remains.

3-4-10 LIVE ANIMALS FOR RESEARCH PROHIBITED. No live animals in the possession of the animal shelter shall be released, sold or given to any institution or private firm or individual for the purposes of medical or scientific research.

3-4-11 MULTIPLE-PET LICENSE.

(A) Multiple-pet owners must obtain an annual license from the County upon payment of a fee of **Twenty-Five Dollars (\$25.00)**. Such license shall be obtained no later than **thirty (30) days** after assuming ownership of a sixth animal and must be renewed annually by **January 1st**. The annual renewal fee shall be **Ten Dollars (\$10.00)** if the homeowner receives an inspection of excellent. Payment by a multiple-pet owner shall not exempt such license from payment of county registration fee for each dog or cat owned by him/her.

(B) Multiple-pet ownership without obtaining such license shall be in violation of law for which, upon conviction thereof, such owner shall be penalized not less than **Fifty Dollars (\$50.00)** and not more than **Five Hundred Dollars (\$500.00)**.

(C) If someone has **five (5)** or more "breedable females" (dogs or cats) and are selling the offspring and/or the adults, the owner of the animals would need to be licensed with Illinois Department of Agriculture. If the owner has a license with the Department, they would not need a multiple-pet license with the County. The owner will still have to comply with County ordinances in regard to rabies vaccination and registration of the animals. Anyone found in violation of this Section would be charged with operating a kennel without a license.

3-4-12 MULTIPLE PET-OWNER LICENSEE REQUIREMENTS. An applicant for a multiple-pet license shall consent to the inspection of the premises where his animals are kept or maintained. Such inspection shall be performed before issuance of the license or upon receipt of a complaint. Annual inspections may be required for multiple-pet owners with marginally acceptable standards. Such inspection may be performed by the Administrator.

Failure to comply with a request for inspection is a violation of this Article. Holders of multiple-pet licenses shall conform to the following requirements:

(A) All dogs and/or cats over **four (4) months** of age must be inoculated against rabies and registered pursuant to this Article.

(B) All dogs and/or cats must be provided with a continuous supply of fresh water, sufficient food to maintain acceptable body weight, proper shelter, protection for the weather and sufficient veterinary care to prevent suffering.

(C) If the dogs and/or cats are kept or maintained within a structure or building, such building shall:

- (1) be kept clean, free of feces and urine;
- (2) not constitute a nuisance or danger to the health or welfare of its inhabitants nor surrounding residents;
- (3) be well ventilated and maintain appropriate temperature (follow USDA guidelines) to prevent suffering.

(D) If the dogs and/or cats are kept or maintained outside a building:

- (1) A shelter of sufficient size to permit such animals to stand up and turn around inside when fully grown shall be provided at all times.
- (2) The shelter shall have **four (4) sides**, a roof, floor, bedding and an opening large enough for the animal to enter the shelter. The shelter shall be placed to provide shade from the sun and protection from the weather.
- (3) The shelter shall be placed at least **ten (10) feet** from all property lines except where there is an alley.
- (4) A dog shall be deemed to be housed outside if said dog is outside for more than **eight (8) hours** in the aggregate during any **twenty-four (24) hour** period or is outside for more than **thirty (30) minutes** between the hours of **11:00 P.M. to 7:00 A.M.**

(E) The dogs and/or cats shall be prevented from running at large.

(F) The dogs and/or cats shall be prevented from causing a nuisance pursuant to **Section 3-1-11** of this Chapter.

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

(H) The applicant shall not have been found guilty of more than **three (3)** violations of the animal control ordinance within the previous **three (3) years** from the date of application.

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

3-4-13 REVOCATION OF MULTIPLE-PET LICENSE.

(A) Upon conviction of a second violation of the requirements pursuant to this Chapter, the Administrator shall revoke the multiple-pet license for a period of not less than **three (3) months** nor more than **five (5) years**, the length of the revocation period to be determined by the number and severity of the violations. After expiration of the revocation period, the license shall not be automatically reinstated. The former licensee must reapply for the license and show an ability to conform to the existing ordinances before he may be issued a multiple-pet license.

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

3-4-14 IMPOUNDMENT OF MULTIPLE PETS.

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

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

3-4-15 NO FERAL CAT COLONIES ARE ALLOWED. No person shall feed, keep, harbor, permit or start up any feral cat colonies in the City. The cats will be impounded and euthanized.

3-4-16 FEMALE DOGS AND CATS IN HEAT. Every owner of a female dog or cat shall cause such dog or cat to be confined in a secure enclosure while in heat.

3-4-17 NORMAL HUSBANDRY PRACTICES - CONSTRUCTION WITH OTHER LAWS. Nothing in this Division affects normal, good husbandry practices utilized by any person in the production of food, companion or work animals or in the extermination of undesirable pests. In case of any alleged conflict between this Division and the Wildlife Code of Illinois or "An Act to define and require the use of humane methods in the handling, preparation for slaughter, and slaughter of livestock for meat or meat products to be offered for sale", approved **July 26, 1967**, as amended, the provisions of those acts shall prevail.

3-4-18 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 Product 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.

3-4-19 VIOLATIONS; PENALTIES. Any person found guilty of a violation of this Chapter in a court of law shall pay a fine of not less than **Seventy-Five Dollars (\$75.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**. A penalty under this Section shall be in addition to and not in lieu of any action taken and permitted by this Chapter.

(Ord. No. 1575; 10-20-08)

ARTICLE V – TETHERING

3-5-1 TETHERING DOG REGULATIONS. The following regulations shall be applicable to owners and guardians of dogs in their care to-wit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-5-2 VARIANCES. Any person seeking a variance from the regulations in this Article shall complete an application at the Animal Control Agency of the City. The variance shall be reviewed by the Animal Control Committee for approval or disapproval.

(510 ILCS 70/3)

CHAPTER 4 – BOARDS-COMMISSIONS

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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; Article 5/11-12-4 through 5/11-12-12.**

4-1-2 **MEMBERSHIP.** The Planning Commission shall consist of **seven (7) 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.

4-1-3 **TERM OF OFFICE.** The term of office of each member shall be **three (3) years**. Any appointment to fill a vacancy shall, however, be only for the unexpired term of the member whose position has become vacant. The members of the Commission shall serve until their respective successors are appointed and qualified.

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 City Clerk shall be complied with as provided for by law. To provide for the health, safety, comfort, and convenience of the inhabitants of the City and contiguous territory, such plan or plans shall establish reasonable standards of design for subdivisions and for resubdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements as herein defined and shall establish reasonable requirements governing the location, width, course, and surfacing of public

streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment. The requirements specified herein shall become regulatory only when adopted by law.

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

(C) To recommend to the City Council, 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 plan commissions and other agencies or groups to further the local plan 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 or times, before or after the formal adoption of the official comprehensive plan by the corporate authorities, an official map may be designated by ordinance, which map may consist of the whole area included within the official comprehensive plan or one or more geographical or functional parts and may include all or any part of the contiguous unincorporated area within **one and one-half (1 1/2) miles** from the corporate limits of the City. All requirements for public hearing, filing notice of adoption with the County Recorder of Deeds and filing of the plan and ordinances, including the official map with the Clerk shall be complied with as provided for by law. No map or plat of any subdivision or re-subdivision presented for record affecting land within the corporate limits of the City or within contiguous territory which is not more than **one and one-half (1 1/2) miles** beyond the corporate limits shall be entitled to record or shall be valid unless the subdivision shown thereon provides for standards of design, and standards governing streets, alleys, public ways, ways for public service facilities, street lights, public grounds, size of lots to be used for residential purposes, and distribution, sanitary sewers, and sewage collection and treatment in conformity with the applicable requirements of the code, including the official map. **(See 65 ILCS Sec. 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 any 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.

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. **(See 65 ILCS Sec. 5/11-12-12)**

ARTICLE II - BOARD OF POLICE COMMISSIONERS

4-2-1 **BOARD ESTABLISHED.** Pursuant to the provisions of and as required by **Division 2.1 of Article 10 of the Illinois Municipal Code** for municipalities of a population of at least **five thousand (5,000)** and not more than **two hundred fifty thousand (250,000)**, a Board of Police Commissioners consisting of **three (3) persons** is established for the City. **(See 65 ILCS Sec. 5/10-2.1-1 et seq.)**

4-2-2 **APPOINTMENT.** Within **thirty (30) days** after this Article becomes effective, the Mayor shall appoint the first members of the Board of Police Commissioners. **One (1)** of the members shall be appointed to serve until the end of the then current municipal year, another to serve until the end of the municipal year next ensuing, and the third to serve until the municipal year second next ensuing. Every member shall serve until his successor is appointed and has qualified.

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

4-2-4 **CHAIRMAN ELECTED.** The members of the Board of Police Commissioners shall elect a chairman to serve during the municipal fiscal year.

4-2-5 **QUORUM.** A majority of the Board of Police Commissioners shall constitute a quorum for the conduct of all business.

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

4-2-7 **CONFLICTING OFFICES.** No person holding an office of the City shall be a member of the Board of Fire and Police Commissioners or the secretary thereof. The acceptance of any such office by a member of the Board shall be treated as a resignation of his office as a member of the Board of Police Commissioners or the secretary thereof. No person shall be appointed a member of the Board of Police Commissioners who is related, either by blood or marriage up to the degree of first cousin, to any elected official of the City. No more than **two (2) members** of the board shall belong to the same political party existing in the City at the time of such appointments and as defined in Section 10-2 of the Election Code, **III. Comp. Stat., Ch. 10, Par. 5/10-2.** If only one or no political party exists in the City at the

time of such appointments, then state or national political party affiliation shall be considered in making such appointments. Party affiliation shall be determined by affidavit of the person appointed as member of the board.

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

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

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

- (A) to appoint all officers and members of the police department, except the Chief of Police;
- (B) to discipline, suspend, remove, or discharge officers and members of the police department, except the Chief of Police;
- (C) to conduct hearings on charges brought against a member of the police department, except the Chief of Police.

Nothing in this Section shall be construed to prevent the Chief of Police from suspending, without pay, a member of the police department for a period of not more than **five (5) calendar days**, which right is hereby granted to the Chief of Police.

Notice of any such suspension shall be given to the Board of Police Commissioners and shall be subject to review as provided in **65 ILCS Sec. 5/10-2.17 Illinois Compiled Statutes.**

4-2-11 APPOINTMENT OF CHIEF. The Chief of Police shall be appointed by the Mayor with the advice and consent of the City Council and may be removed or discharged by the Mayor upon confirmation by the City Council as set forth in **Ill. Comp. Stat., Ch. 65, Par. 5/10-2.1-4.** All other full time police officers shall be appointed, promoted, removed or discharged in the manner provided in **Division 2.1 of Article 10 of the Illinois Municipal Code. (See 65 ILCS Sec. 5/10-2.1-1 et seq.)**

4-2-12 ADOPTION OF RULES AND REGULATIONS. The Board of Police Commissioners shall adopt and publish rules and regulations to carry out the purpose of **Division 2.1 of Article 10 of the Illinois Municipal Code** and to govern appointments and

removals in accordance with the provisions of said statute. Such rules and regulations shall be adopted according to the procedure required by **Ill. Comp. Stat., Ch. 65, Par. 5/10-2.1-5**. The Board of Police Commissioners, from time to time, may revise such rules and regulations in the same manner as for the adoption of the original rules and regulations. No such rule or regulation shall be made by the Board of Police Commissioners to govern the operation of the police department or the conduct of its members.

4-2-13 **CITY ATTORNEY REPRESENTS BOARD.** The City Attorney shall represent the Board and shall handle prosecutions before the Board.

4-2-14 **APPLICATION OF LAW.** This Article shall apply only to full-time policemen of the City and not to any other personnel of any kind or description.

4-2-15 **STATUTES ADOPTED.** **Division 2.1 of Article 10 of the Illinois Municipal Code**, as amended, (**See 65 ILCS Sec. 5/102.1-1, et seq.**), is hereby incorporated in and made part of this law the same as if recited herein verbatim. In case of any conflict between the provisions of this Article and said Division, said Division shall control. If and as said Division is amended, from time to time, the provisions of this Article in conflict with said Division as a result of said amendment, shall be construed as having been amended by the Amendment to the Division and shall be read, construed and applied in accordance with the provisions of said Amended Division. (**See 65 ILCS Sec. 5/10-2.1-1 et seq.**)

ARTICLE III - POLICE PENSION BOARD

4-3-1 **BOARD ESTABLISHED.** Pursuant to the provisions of and as required by **Article 3 of the Illinois Pension Code** for municipalities with a population of **five thousand (5,000)** or more but less than **five hundred thousand (500,000)** inhabitants, a Police Pension Fund is established for the benefit of police officers of the Police Department and their surviving spouses, children and certain other dependents, as provided in the aforesaid Illinois Pension Code. **(See 40 ILCS Sec. 5/3-101 et seq.)**

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

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

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

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

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

(A) All moneys derived from the taxes levied under **Article 3 of the Illinois Pension Code (See 40 ILCS Sec. 5/3-101 et seq.);**

(B) Contributions by police officers under **Ill. Comp. Stat., Ch. 40, Sec. 5/3-125.1;**

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

(D) Donations, gifts or other transfers authorized by **Ill. Comp. Stat., Ch. 40, Sec. 5/3-101 et seq.**

4-3-4 **TAX LEVY.** The City Council shall annually levy and tax upon all the taxable property of the City at the rate on the dollar which will produce an amount which, when added to the deductions from the salaries or wages of police officers, and revenues available from other sources, will equal a sum sufficient to meet the annual requirements of the police pension fund. The annual requirements to be provided by such tax levy are equal to (1) the normal cost of the pension fund for the year involved, plus (2) the amount necessary to amortize the fund's unfunded accrued liabilities as provided by **Ill. Comp. Stat., Ch. 40,**

Sec. 5/3-127. The tax shall be levied and collected in the same manner as the general taxes of the City, and in addition to all other taxes now or hereafter authorized to be levied upon all property within the City.

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

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

Two (2) members of the Board shall be appointed by the Mayor, one of whom shall serve for **one (1) year** beginning on the second Tuesday in May after the municipality comes within the provisions of **Article 3 of the Illinois Pension Code**. The other appointed member shall serve for **two (2) years** beginning on the same date. The successors to each of the foregoing trustees shall serve for **two (2) years** each or until their successors are appointed and qualified.

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

The active pension fund participants shall be entitled to vote only for the active participant members of the Board. All beneficiaries of legal age may vote only for the member chosen from among the beneficiaries. No person shall be entitled to cast more than **one (1) ballot** at such election. The term of elected members shall be **two (2) years**, beginning on the second Tuesday of the first May after the election. **(See 40 ILCS Sec. 5/3-101 et seq.)**

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

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

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

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

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

The assistant secretary shall act for the secretary whenever necessary to discharge the functions of such office.

4-3-11 **POWERS AND DUTIES.** The Board shall have the powers and duties provided under **Article 3 of the Illinois Pension Code**, including those powers and duties stated in **Sections 40 ILCS 5/3-132 through 40 ILCS 5/3-140.1** of said Code.

4-3-12 **ANNUAL STATEMENTS.** On the second Tuesday in May annually, the Treasurer and all other officials of the City who had the custody of any pension funds herein provided, shall make a sworn statement to the pension board, and to the Mayor and City Council of all moneys received and paid out by them on account of the pension fund during the year, and of the amount of funds then on hand and owing to the pension fund. All surplus then remaining with any official other than the Treasurer shall be paid to the Treasurer of the City. Upon demand of the pension board, any official shall furnish a statement relative to the official method of collection or handling of the pension funds. All books and records of that official shall be produced at any time by him for examination and inspection by the Board.

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

The Board shall certify:

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

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

CHAPTER 6 - BUILDING REGULATIONS

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CHAPTER 6
BUILDING REGULATIONS
ARTICLE I - RESERVED

ARTICLE II - NUMBERING BUILDINGS

6-2-1 **DECIMAL SYSTEM; EXCEPTION.** The numbering of houses and buildings fronting upon the public streets, avenues and alleys of the City shall be according to the decimal system and as follows:

(A) On the north and west sides of streets, even numbers shall be used; on the south and east sides of streets, odd numbers shall be used.

(B) The several blocks fronting upon the several streets in said City shall have their frontage divided as nearly as may be into spaces of **twenty (20) feet** each, and each **twenty (20) feet** of frontage of each block shall be given a number, such space of **twenty (20) feet** being hereby fixed as the unit for the numbering of said streets, avenues and alleys.

(C) Provided, however, that in the case of West Main Street, the public square and the first block of North Broad Street, immediately north of the public square and the first block of East Main Street immediately east of the public square and the first block of South Broad street immediately south of the public square the unit of space shall be **ten (10) feet** instead of **twenty (20) feet**. For the purpose of fixing the several numbers to be placed upon the several streets the City shall be divided east and west by Main Street and divided north and south by Broad Street.

(D) All irregular or unusual blocks, and all irregular streets, shall be numbered as may be specified and directed by the City Engineer, adhering as nearly as may be to the foregoing plan.

6-2-2 **ENGINEER MAY ASSIGN NUMBERS.** It shall be the duty of the City Engineer in pursuance of the foregoing Section to establish and assign all numbers herein provided for upon the streets, avenues, and alleys of said City, and he shall prepare the necessary maps and records of the numbers assigned by him and said maps and records shall be evidence of the numbers so assigned; and he shall, on demand, furnish each owner or occupant of any building or such person as may be employed in numbering houses or buildings, with the necessary information as to the number belonging to each house or building, the size and quality of the number and the placing of the same on the house, and all numbering shall be strictly in accordance with directions and regulations of said City Engineer.

6-2-3 **CONFORMANCE.** All owners or occupants of houses or buildings now erected, within said City, are hereby required to number their houses and buildings in conformity with the provisions of this Chapter and the regulations of the City Engineer made in pursuance thereof.

Any owner or occupant of any house or building now erected, or hereafter to be erected, who shall fail to number such house or building, as aforesaid, within **thirty (30) days** after the completion thereof in case of the erection of a new house or building, or who shall number any house otherwise than in conformity herewith and the regulations of the City Engineer, shall be deemed guilty of a misdemeanor.

6-2-4 **INTERSECTING STREETS.** All streets intersecting Main Street shall, for that portion of such intersecting street south of said Main Street have prefixed before the present name of such streets the word south and all such intersecting streets north of said Main Street shall have prefixed before the present name of the same the word north. All streets intersecting Broad Street shall, for that part of such street west of said Broad Street have prefixed before the present name of the same the word West and all such intersecting streets east of said Broad Street shall have prefixed before them the present name of the same the word East. **(1966 Code; Sec. 8-5-1 et seq.)**

ARTICLE III - COMMERCIAL AND INDUSTRIAL BUILDINGS

6-3-1 **CONSENT OF PROPERTY OWNERS REQUIRED.** No person shall hereafter build, or construct any factory, warehouse, manufacturing plant, wholesale or retail store, in any block in the City which is used mostly for residence purposes, without the written consent of the property owners having a **two-thirds (2/3)** majority of the street frontage of residence property in the block in which such establishment is proposed to be located, built, constructed or maintained and such written consent shall be obtained and filed with the Clerk.

6-3-2 **PERMIT; REGULATIONS.** The Clerk or the Council, upon determining that the block as hereinafter defined is used mostly for residence purposes and upon determining that the written consent of the residence property owners having a **two-thirds (2/3)** majority of the residence street frontage in said block has been obtained and filed, shall issue a permit before the construction of any such establishment, provided, however, that no such place of business shall be located within **two hundred (200) feet** of any building used for a hospital, church or public or parochial school or the grounds thereof; and provided further that the word "block" as used in this Section shall not be held to mean a square only, but shall be held to embrace all that part of the street or alley between the **two (2)** nearest intersecting streets but if one of the nearest intersecting streets shall be more than **four hundred (400) feet** distant from the site of any proposed establishment then only such part of the street or alley in question within such **four hundred (400) foot** limit shall be included. **(Ord. No. 6-7-37)**

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CHAPTER 7

BUSINESS CODE

ARTICLE I - SOLICITORS

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

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

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

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

(A) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever; or

(B) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind, or character; or

(C) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or

(D) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation, or project.

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

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

(A) Name and address of present place of residence and length of residence at such address as well as business address if other than residence address; also, Social Security number.

(B) Address of place of residence during the past **three (3) years** if other than present address.

(C) Age of applicant and marital status; and if married, the name of spouse.

(D) Physical description of the applicant.

(E) Name and address of the person, firm, or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.

(F) Name and address of employer during the past **three (3) years** if other than the present employer.

(G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.

(H) Period of time for which the Certificate is applied.

(I) The date or approximate date of the latest previous application for a Certificate under this Code, if any.

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

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

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

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

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

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

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

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

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

7-1-4 ISSUANCE AND REVOCATION OF CERTIFICATE.

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

(B) Any Certificate of Registration issued hereunder shall be revoked by the Chief of Police if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the Certificate in person or by certified [return receipt requested] U.S. Mail,

addressed to his or her residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.

(C) The Certificate of Registration shall state the expiration date thereof.

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

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

(A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given as indicated in the following paragraph (B).

(B) A weather-proof card, approximately **three inches by four inches (3" x 4")** in size shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words as follows:

**"ONLY REGISTERED SOLICITORS INVITED"
OR
"NO SOLICITORS INVITED"**

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

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

7-1-7 **UNINVITED SOLICITING PROHIBITED.** It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-2-6.**

7-1-8 **TIME LIMIT ON SOLICITING.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined prior to **10:00 A.M.** or after **9:00 P.M.** of any weekday or at any time on a Sunday or on a State or National Holiday.

ARTICLE II - PEDDLERS

7-2-1 **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article, or thing without having first secured a license therefor.

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

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

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

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

7-2-5 **UNWANTED PEDDLING.** Nothing contained in this Chapter nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents, or employees are directed to depart from said private residence by the owner or person in charge thereof.

7-2-6 **PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the municipality by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

7-2-7 **DUTY OF POLICE TO ABATE.** The Police Department of this municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-2-6.**

7-2-8 **EXCLUSIONARY PROVISION.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the municipality or anyone duly licensed.

7-2-9 **FEES.** The license fees per person to be charged for licenses to peddle in this municipality, each payable in advance, are hereby fixed and established as follows:

(A) **Daily License:** **\$100.00 per person per day.**

(B) **Annual License:** **\$500.00 per person per year.**

(Ord. No. 1472; 12-16-02) (65 ILCS 5/11-42-5)

ARTICLE III - COIN-OPERATED MACHINES

7-3-1 **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 video gaming terminals as defined by the Illinois Gaming Act, 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 a terminal operator as defined by the Illinois Video Gaming Act, and also 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 coin-operated amusement 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 a licensed establishment as defined by the Illinois Gaming Act, and also 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.

7-3-2 **LICENSE REQUIRED.** No person, firm, corporation or terminal operator 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 stickers for such devices.

7-3-3 **APPLICATION.** Application for license sticker shall be verified by oath or affidavit and contain the following information:

(A) The name, age and address of the applicant in the case of an individual, and in the case of a co-partnership, of the persons entitled to share in the profits thereof; and in the case of a corporation, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors; and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).

(B) The citizenship of the applicant, his place of birth; or if a naturalized citizen, the time and place of his naturalization.

(C) The address of the place where the applicant proposes to operate.

(D) A statement whether the applicant has made a similar application for a similar license on premises other than those described in the application and the disposition of such other application.

(E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this Section.

7-3-4 **PROHIBITED LICENSEES.** No license sticker 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 sticker issued under this Chapter has been revoked for cause.

(D) Any partnership, unless all of the members of the partnership are qualified to obtain such license sticker.

(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 sticker 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 sticker is sought, or does not have a lease therefor for the full period for which the license sticker is to be issued.

7-3-5 **FEES.** The annual fee for such license stickers shall be as follows:

(A) **Fifty-Five Dollars (\$55.00)** per year or part thereof for each coin-operated amusement device other than a video gaming terminal, set up for operation, leased or distributed to a proprietor.

(B) **One Hundred Twenty-Five Dollars (\$125.00)** per year or part thereof for each video gaming terminal set up for operation, leased or distributed to a proprietor. **(Ord. No. 1834; 03-21-22)**

All license sticker fees shall be payable quarterly, and in no case shall any portion of said license sticker fee be refunded to the licensee. The license sticker period shall be for the fiscal year of the municipality, and all applications for renewal shall be made to the Clerk not more than **thirty (30) days**, but no less than **fifteen (15) days** prior to the expiration of such license sticker.

7-3-6 **NON-ASSIGNABILITY OF LICENSE.** The location of a license sticker may be changed only upon the written permission of the Mayor. Any license sticker issued hereunder shall be non-assignable and non-transferable.

7-3-7 **PLACEMENT; GAMBLING PROHIBITED.**

(A) All coin-operated amusement devices, other than video gaming terminals, shall at all times be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used. All video gaming terminals shall be kept and placed in the manner required by Illinois law.

(B) Video gaming terminals operated in compliance with the Illinois Video Gaming Act and other Illinois laws are permitted in the City, but other gambling devices of any nature whatsoever are prohibited in the City.

(C) **Prizes and Awards Prohibited.** It shall be unlawful for any person receiving a license sticker pursuant to this Article to give or award a cash prize or equivalent to any person playing any of the tables, devices or machines enumerated hereinabove under tournament, league or any other individual or competitive play, except as permitted by the Illinois Video Gaming Act.

7-3-8 **DISPLAY OF LICENSE.** Every license sticker shall be placed in a conspicuous place on the coin-operated amusement device for which it was issued.

7-3-9 **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 with license sticker(s) are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

7-3-10 **FINES.** Any person convicted of violating any provisions of **Sections 7-3-1** through **7-3-9** of the Code shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for any one offense. A separate offense shall be deemed committed each day during which the violation occurs or continues.

(Ord. No. 1678; 10-01-12)

(65 ILCS 5/11-55-1)

ARTICLE IV - JUNK DEALERS

7-4-1 **DEFINITIONS.**

"JUNK" as used in this Chapter shall be held to mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap lumber, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds or sizes when the number of each kind or size is less than **one (1) gross**, any wrecked or dilapidated motor vehicle, engine, or machinery received, stored or held for more than **ninety (90) days**, and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any one or more of the materials or articles herein mentioned.

"JUNK DEALER" as used in this Chapter shall be held to mean and include every person, firm, partnership, or corporation that shall engage in the business of buying, selling, bartering or exchanging, or shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things in and by this Section defined as "junk".

"JUNK YARD" as used in this Chapter shall be held to mean and include the premises on which a junk dealer is engaged in the business of buying, selling, bartering, exchanging, or collecting, receiving, storing or holding in possession for sale, barter, or exchange, any of the things in and by this Section defined as "junk".

(Also see Chapter 24, Article VII and Chapter 25, Articles I and III)

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 paragraph (A) above.

(C) The aforesaid solid, non-transparent wall or fence and the gates or doors, if any, at the aforesaid entrances and exits shall not contain any sign, poster or advertising matter of any kind whatsoever, excepting **one (1) sign** of the licensee thereon not exceeding **one hundred (100) square feet** in size.

(D) The public streets and alleys adjacent to the junk yard shall not have junk thereon.

7-4-3 **LICENSE REQUIRED.** It shall be unlawful for any person to keep, maintain, conduct or operate a junk yard within the corporate limits of the City without first obtaining a license to do so as herein provided. A separate license shall be secured for each junk yard located on non-contiguous lots, blocks, tracts or parcels of land.

7-4-4 **APPLICATION.** Before any license under the provisions of this Section is issued, any person desiring to operate a junk yard in this City shall first make a verified

application in writing to the Clerk in the absence of provision to the contrary, stating thereon the full name of the applicant, his residence address, the trade name of the applicant, the legal description of the premises where the junk yard is to be located, the size and approximate location of each entrance thereto and exit therefrom, whether or not the premises where the junk yard is to be located is enclosed on its perimeter with a solid, non-transparent wall or fence of a minimum height of **seven (7) feet**, measured from ground level, excepting the entrances and exits, and whether or not the public streets and alleys adjacent to the premises where the junk yard is to be located have junk thereon. If the applicant is a firm or 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 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.

7-4-7 **LICENSE FEE.** The annual license fee for each junk yard shall be **Three Hundred Dollars (\$300.00)** 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 **Two Hundred Dollars (\$200.00)** for each junk dealer. The fee is payable as provided in this Code.

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.

(See 65 ILCS Sec. 5/11-42-3)

ARTICLE V - POOL; BILLIARD TABLES

7-5-1 **LICENSE REQUIRED.** It shall be unlawful for any person to operate pool or billiard tables within the City, unless the person shall first obtain a license as hereinafter provided.

7-5-2 **APPLICATION.** Any person desiring to operate pool or billiard tables shall file application with the Clerk and pay the Clerk an annual license fee of **Ten Dollars (\$10.00)** for each pool or billiard table. All such licenses shall expire on the first day of May next after their issuance and when application is made after the first day of July of any year, the license fee shall be the proportionate part of the annual rate fixed by this Article.

7-5-3 **HOURS; SUNDAY.** No pool or billiard table shall be operated between the hour of **twelve o'clock (12:00) midnight** and **eight o'clock (8:00) A.M.** of any day; further that on Sunday, no such tables shall be operated before the hour of **twelve o'clock (12:00) noon.**

7-5-4 **MINORS IN SCHOOL.** No pupil who is in attendance at any public school shall be permitted to play pool or billiards while said school is in session. (**Ord. No. 9-5-50**)

(65 ILCS 5/11-42-2)

ARTICLE VI - LICENSES FOR THEATERS

7-6-1 **LICENSE REQUIRED.** No person, firm or corporation shall operate a theater for movies or other entertainment within the corporate limits of the City without having first obtained proper license therefore.

7-6-2 **APPLICATION.** Any person desiring to operate a theater for movies or entertainment purposes shall file an application with the City Clerk and pay the City Clerk the annual license fee.

7-6-3 **ANNUAL FEES.** The annual fee for each structure used for such purposes per year for a theater license shall be **One Hundred Ten Dollars (\$110.00)**. The annual license shall be for the period of **May 1** to **April 30** of the succeeding year and shall be due and payable before the beginning of such period. The annual license fee shall not be prorated and shall be the same amount whether issued before or after **May 1**.

(Ord. No. 1627; 04-04-11)

ARTICLE VII – RAFFLES AND POKER RUNS

7-7-1 DEFINITIONS. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) **"Business":** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(B) **"Charitable Organization":** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

(C) **"Educational Organization":** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

(D) **"Fraternal Organization":** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

(E) **"Hardship":** A non-profit fundraising organization that has not been in existence continuously for a period of **five (5) years** immediately before making application for a license that the County determines to be organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster.

(F) **"Key Location":** The location where the poker run concludes and the prize or prizes are awarded.

(G) **"Labor Organization":** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

(H) **"Licensee":** An organization which has been issued a license to operate a raffle.

(I) **"Net Proceeds":** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

(J) **"Non-Profit":** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

(K) **"Poker Run":** An event organized by an organization licensed under this Chapter in which participants travel to multiple predetermined locations, including a key location, drawing a playing card or equivalent item at each location, in order to assemble a facsimile of a poker hand or other numeric score. "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item at each location.

(L) **"Raffle":** A form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

- (1) the player pays or agrees to pay something of value for a chance, represented and differentiated by as number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;

- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(M) **"Religious Organization":** Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) **"Veterans' Organization":** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

7-7-2 REQUIREMENT OF LICENSE.

(A) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a raffle, or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

(B) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a poker run without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

7-7-3 APPLICATION FOR A LICENSE FOR A RAFFLE.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The area in which raffle chances will be sold or issued;

- (10) The time period during which raffle chances will be sold or issued;
- (11) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable filing fee. Such fee shall be paid by cash, credit card or cashier's check. The City Clerk shall refer the application to the Mayor.

NOTE: The governing statute states that all licensing systems for raffles shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold.

7-7-4 APPLICATION FOR A LICENSE FOR A POKER RUN.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a poker run shall file an application therefore with the City Clerk on the forms provided by the City Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle or poker run, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, and any other members responsible for the conduct and operation of the raffle or poker run;
- (5) The name, address, and telephone number of all locations at which the poker run will be conducted;
- (6) The time period during which the poker run will be conducted;
- (7) The time of determination of winning chances and the location or locations at which the winning chances will be determined;
- (8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (9) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a poker run shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, cashier's check, or credit card. The City Clerk shall refer the application to the Mayor.

7-7-5 LICENSEE QUALIFICATIONS.

(A) Raffle licenses and poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the Mayor determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster. The Mayor may waive the **five (5) year** requirement under this Section for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a raffle or poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the **five (5) year** requirement. The following are ineligible for any raffle or poker run license;

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;
- (5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and
- (6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

7-7-6 LICENSE ISSUANCE.

(A) The Mayor shall review all raffle license applications and all poker run license applications. The Mayor shall, within **thirty (30) days** from the date of application, accept or reject a raffle or poker run license application. If an application is accepted, the Mayor shall forthwith issue a raffle or poker run license to the applicant.

(B) A raffle license or poker run license shall specify:

- (1) The area or areas within the County in which raffle chances will be sold or issued or a poker run will be conducted;
- (2) The time period during which raffle chances will be sold or issued or a poker run will be conducted; and
- (3) The time of determination of winning chances and the location or locations at which the winning chances will be determined.

(C) Any license issued under this Article shall be non-transferable.

(D) A license shall be valid for one raffle event or one poker run only, unless the Mayor specifically authorized a specified number of raffles or poker runs to be conducted during a specified period not to exceed **one (1) year**.

(E) A raffle license or poker run license may be suspended or revoked for any misrepresentation on the application, any violation of this Article or State law, or when such raffle or poker run or portion thereof is conducted so as to constitute a public nuisance or to disturb the peace, health, safety or welfare.

(F) **Prominent Display of License.**

(1) A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.

(2) A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

(G) **Miscellaneous Provision for Poker Run License.** Any poker run license issued shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each location at which the poker run will be conducted.

7-7-7 CONDUCT OF RAFFLES AND POKER RUNS.

(A) The operation and conduct of raffles and poker runs are subject to the following restrictions:

- (1) The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.
- (5) Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.
- (6) A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are

being determined only when accompanied by his parent or guardian.

(B) If a lessor rents premises where a winning chance on a raffle or a winning hand or score in a poker run is determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the City.

7-7-8 MANAGER - BOND.

(A) All operations of and conduct of raffles and poker runs shall be under the supervision of a single poker run manager designated by the organization. The manager or operator of the raffle or poker run must be a bona fide member of the organization holding the license for such a raffle or poker run and may not receive any remuneration or profit for participating in the management or operation of the raffle or poker run.

(B) The manager shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the City not less than **thirty (30) days** prior to its cancellation.

(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

7-7-9 RECORDS.

(A) Each organization licensed to conduct raffles and chances or poker runs shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles or poker runs. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles or poker runs shall report monthly to its membership, and to the City Clerk, its gross receipts, expenses and net proceeds from raffles or poker runs, and the distribution of net proceeds itemized as required by this Section.

(D) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of poker runs for public inspection at reasonable times and places.

(E) The City shall maintain the records required by this Section in compliance with the "Raffles and Poker Runs Act" and the Local Records Act, **50 ILCS 205/1 et seq.**

7-7-10 LIMITED CONSTRUCTION. Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.

7-7-11 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 VIII – ADULT USE LICENSING AND REGULATION

7-8-1 **PURPOSE.** The purpose of this Article is to regulate adult uses to protect the community from the many types of criminal activity frequently associated with such uses. The City recognizes that such regulation cannot effectively prohibit such uses, but can balance the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

7-8-2 **DEFINITIONS.**

(A) **Adult Bookstore.** An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such materials, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(B) **Adult Entertainment Cabaret.** A public or private establishment which:

- (1) features topless dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows;
- (2) not infrequently features entertainers who display "specified anatomical areas"; or
- (3) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of "specified sexual activities".

(C) **Adult Motion Picture Theater.** A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(D) **Adult Novelty Store.** An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing "novelties", lotions and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(E) **Nudity.** Nudity means the showing of the human male or female genitals, pubic area, female breasts with less than a full opaque covering below a point immediately above the top of the areola, human male genitals in a discernibly turgid state even if completely and opaquely covered or, that portion of the buttocks which would be covered by a properly worn "thong" type bikini bottom.

(F) **Public Place.** Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. Public places shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar religious ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or a university supported entirely or partly by taxation or an accredited private college.

(G) **Adult Use.** Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult clubs allowing nudity at regular or frequent times, adult novelty stores and other similar uses.

(H) **Employee.** Employees, independent contractors or any other person who is retained by the licensee or subject to dismissal from working at the licensed premises.

(I) **Specified Sexual Activities.** For the purpose of this Article, "specified sexual activities" means:

- (1) human genitals in the state of sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy; and
- (3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

(J) **Specified Criminal Activity.** For the purpose of this Article, "specified anatomical areas" means:

- (1) less than completely and opaquely covered:
 - (a) human genitals;
 - (b) pubic region;
 - (c) buttocks;
 - (d) female breasts below a point immediately above the top of the areola; and
- (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(K) **Specified Criminal Activity.** Specified criminal activity means any of the following offenses:

- (1) Prostitution or promotion of prostitution; dissemination of obscenity; sale distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; public indecency; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described

- above under the criminal or penal code of other states or countries;
- (2) For which:
 - (a) less than **two (2) years** have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense;
 - (b) less than **five (5) years** have elapsed since the date of conviction or the date of release from confinement for conviction, whichever is the later date, if the conviction is a felony offense; or
 - (c) less than **five (5) years** have elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of **two (2)** or more misdemeanor offenses or combination of misdemeanor offenses occurred within any **twenty-four (24) month** period; and
 - (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

7-8-3 **LICENSE REQUIRED.**

(A) It shall be unlawful for any person to operate an adult use without a valid adult use business license issued by the City pursuant to this Article.

(B) An application for a license shall be made on a form provided by the City.

(C) All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as is needed to enable the City to determine whether the applicant meets the qualifications established in this Article.

(D) If a person who wishes to operate an adult use is an individual, the person must sign the application for a license as applicant. If the applicant is a club, consisting of private or public membership, then such entity shall also be licensed under this Article. If a person who wishes to operate an adult use is other than an individual or club, each individual who has a **twenty percent (20%)** or greater interest in the business, including corporations, must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if the license is granted.

(E) The completed application for an adult use business license shall contain the following information:

- (1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is **eighteen (18) years** of age;
- (2) If the applicant is a club, consisting of private or public membership, a copy of the by-laws of the club must be submitted with the application. In addition, a sworn statement as to the purposes, general activities and requirement for club membership must be submitted.
- (3) If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the

partnership is general or limited, and a copy of the partnership agreement, if any; and

- (4) If the applicant is a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, (those with a **twenty percent (20%)** or more stake) and the name and address of the registered corporate agent.

(F) If the applicant intends to operate the adult use business under a name other than that of the application, he/she must state:

- (1) the business' fictitious name and
- (2) submit any required registration documents.

(G) Whether the applicant has been convicted of any specified criminal activity as defined in this Article, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(H) Whether the applicant has had a previous license under this Article or similar ordinances from another jurisdiction denied, suspended or revoked, including the name and location of the business which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation. If the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under this Article or similar ordinance in another jurisdiction and a license has previously been denied, suspended or revoked, include the name and location of the business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

(I) Whether the applicant holds any other licenses under this Article or other similar ordinance from another jurisdiction and if so, the names and locations of such other licensed businesses.

(J) A sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business. This sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

7-8-4 ISSUANCE OF LICENSE.

(A) Within **thirty (30) days** after receipt of a completed adult use business license application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license unless it determines, by a preponderance of the evidence, any one or more of the following:

- (1) The applicant is under **eighteen (18) years** of age;
- (2) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;
- (3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form;
- (4) The applicant has been denied a license by the City to operate an adult use business within the preceding **twelve (12) months** or

whose license to operate an adult use business has been revoked within the preceding **twelve (12) months**;

- (5) The applicant has been convicted of a specified criminal activity defined in this Article.
- (6) The premises to be used for adult use business has not been inspected and approved by the Fire Department and the Building Department as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this Article has not been paid.
- (8) The applicant of the proposed establishment is in violation or not in compliance with all of the provisions of this Article.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult use business. All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(C) The Fire Department and Code Enforcement Officers shall complete their inspection certification that the premises is in compliance or not in compliance with City codes within **twenty (20) days** of receipt of the application by the City.

(D) No adult use business license shall be issued unless it meets all criteria set forth in the Zoning Code. However, an adult use business license may be issued for a premises which is a legal nonconforming use which has not yet been amortized or for a premises where such amortization is being challenged by litigation.

(E) No signs, advertising or other notice to the public may be given for any premises where adult use is conducted, pursuant to this Article.

7-8-5 **LIQUOR.** No liquor license shall be issued to a licensee or to premises where adult use is conducted, nor shall liquor be sold, given away or allowed to be consumed on the premises where any adult use is conducted.

7-8-6 **FEES.** Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **Seven Hundred Fifty Dollar (\$750.00)** non-refundable application and investigation fee.

7-8-7 **INSPECTION.**

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Department or other City or City designated departments or agencies to inspect the premises of the adult use for the purpose of ensuring compliance with the provisions of this Article at any time it is occupied or open for business.

(B) A person who operates an adult use or his agent or employee violates this Article if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

7-8-8 **EXPIRATION OF LICENSE.**

(A) Each license shall expire on the **January 1** after it was issued and may be renewed only by making application as provided in **Section 7-8-4**. Application for renewal

shall be made at least **thirty (30) days** before the expiration date and when made less than **thirty (30) days** before the expiration date, the expiration of license will not be affected.

(B) If the City denies renewal of a license, the applicant shall not be issued a license for **one (1) year** from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

7-8-9 SUSPENSION. The City may suspend a license for a period not to exceed **thirty (30) days** if, after a hearing, it determines that a licensee or an employee of a licensee:

- (A) violated or is not in compliance with any section of this Article;
- (B) refused to allow an inspection of the adult use business premises as authorized by this Article, or
- (C) knowingly permitted gambling by any person on the adult use business premises.

If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this Article, no hearing is necessary prior to suspension of the license.

7-8-10 REVOCATION.

(A) The City shall revoke a license if a cause of suspension in **Section 7-8-8** above occurs and the license has been suspended within the preceding **twelve (12) months** or if the licensee is convicted of any specified criminal activity.

(B) The City may revoke a license if it determines, after a hearing, that:

- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) A licensee or management personnel has knowingly allowed possession, use or sale of alcohol or controlled substances on the premises;
- (3) A licensee or management personnel has knowingly allowed prostitution on the premises;
- (4) A licensee or management personnel knowingly operated the adult use business during a period of time when the licensee's license was suspended;
- (5) A licensee or management personnel has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises;
- (6) A licensee is delinquent in payment to the City, County or State for any taxes or fees past due;
- (7) A licensee or management personnel has knowingly facilitated another's commission of the offense of public indecency; or
- (8) The adult use is a public nuisance as defined by statute, ordinance or case law.

(C) If the City revokes a license, the revocation shall continue for **one (1) year** and the licensee shall not be issued an adult use business license for **one (1) year** from the date the revocation became effective. If subsequent to revocation, the City finds that the factual basis for the revocation did not occur, the applicant may be granted a license.

(D) After denial of an application, or denial of a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

7-8-11 TRANSFER OF LICENSE. A licensee shall not transfer his/her license to another nor shall a licensee operate an adult use business under the authority of a license at any place other than the address on the license.

7-8-12 BUSINESS RECORDS. All adult uses shall file a verified report with the City showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

7-8-13 LIQUOR LICENSE. No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

7-8-14 ADULT ENTERTAINMENT CABARETS – RESTRICTIONS. All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

7-8-15 VIDEO VIEWING BOOTHS – RESTRICTIONS. No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions or a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

7-8-16 HOURS OF OPERATION. No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

7-8-17 INVESTIGATION. Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

ARTICLE IX – FIREWORKS CODE

7-9-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Common Fireworks: Any fireworks designed primarily to produce visual or audible effects by combustion.

(A) The term includes:

- (1) Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flitter sparklers;
- (2) Smoke devices;
- (3) Fireworks commonly known as helicopters, aerials, spinners, roman candles, mines and shells;
- (4) Class C explosives classified as common fireworks by the United States Department of Transportation, by regulations found in the Code of Federal Regulations.

(B) The term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, and missile-type rockets.

Dangerous Fireworks: Any fireworks not defined as a “common firework”.

Fireworks: Any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks.

Special Fireworks: Any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes:

(A) Fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and

(B) Fireworks not classified as common fireworks.

7-9-2 **SALE OF FIREWORKS UNLAWFUL.** It is unlawful for any person to sell any fireworks within the City other than those fireworks designated in **Section 7-9-5** of this Article, provided that this prohibition shall not apply to duly authorized public displays.

7-9-3 **POSSESSION, USE AND DISCHARGE OF DANGEROUS FIREWORKS UNLAWFUL.** It is unlawful for any person to sell, possess, use, transfer, discharge or explode any dangerous firework within the City; provided that this prohibition shall not apply to duly authorized public displays.

7-9-4 **PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS.** It is unlawful for any person to engage in the retail sale of or to sell fireworks or to hold, conduct, or engage in a public display of fireworks within the City without first having obtained a valid permit issued pursuant to the provisions of this Article.

7-9-5 **TIME LIMIT SET ON SALE AND USE.** No permit holder shall offer for retail sale or sell any fireworks within the City except from **12:00 Noon** on the **28th of June** to **12:00 Noon** on the **6th of July** of each year. No fireworks may be sold or discharged between the hours of **11:00 P.M.** and **9:00 A.M.** Provided, the sale and use of fireworks as provided in this Section shall be limited to the following:

Dipped stick, sparklers and smoke devices.

7-9-6 **PERMIT FEES.** The annual fee for a "seller's permit" for the sale of fireworks as may be authorized under this Article, shall be **One Hundred Dollars (\$100.00)** per year for each seller's permit, payable in advance. The fee for a "public display permit" for the public display of fireworks shall be **One Hundred Dollars (\$100.00)**, payable in advance, unless waived by the City Council.

7-9-7 **ISSUANCE – NONTRANSFERABLE VOIDING.**

(A) **Sellers.** Each seller's permit issued under this Article shall be for only one retail outlet. The number of seller's permits shall not be limited as long as all conditions are met as stated in **Section 7-9-11** of this Article. Each seller's permit issued pursuant to this Article shall be valid only for the current year, shall be used only by the designated permittee and shall be nontransferable.

(B) **Public Display Permit.** Each public display permit issued pursuant to this Article shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is violation of this Article and shall void the permit granted in addition to all other sanctions provided in this Article.

7-9-8 **APPLICATION FOR PUBLIC DISPLAY PERMIT.** Applications for a permit to conduct a public display of fireworks shall be made to the Fire Chief at least **fourteen (14) days** prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display, and as set forth in **Section 7-9-12** of this Article.

7-9-9 **APPLICATION FOR SELLER'S PERMIT—CONDITIONS FOR ISSUANCE.** Applications for seller's permits shall be made to the City Clerk annually on or after **April 1st** of the year for which the permit is issued and the filing period shall close on **April 15th** of such year unless extended by action of the City Council. Applications shall be signed by the retail seller, if an individual, or by the duly authorized officer, if an association or corporation. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller's permits for the sale of those fireworks allowed pursuant to **Section 7-9-4** of this Article shall be issued only to applicants meeting the following conditions:

(A) The retailer or person in charge and responsible for the retail operation shall be **twenty-one (21) years** of age or older, of good moral character and of demonstrated responsibility.

(B) The applicant shall have a valid and current license issued by the State of Illinois authorizing the holder to engage in the retail sale of fireworks. **(See 425 ILCS 35)**

(C) The applicant shall own or have the right to possess a temporary fireworks stand complying with the requirements of this Article.

(D) The applicant shall procure and maintain a policy or policies of public liability and property damage insurance issued by a company or companies authorized to do business in the State of Illinois in the following minimum amounts: **Five Hundred Thousand Dollars (\$500,000.00)** for injuries to any one person in one accident or occurrence; **One Million Dollars (\$1,000,000.00)** for injuries to two or more persons in any one accident or occurrence; **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property in any one accident or occurrence; **One Million Dollars (\$1,000,000.00)** combined single limit for any one accident or occurrence. In addition, the City is to be an additional named insured and the policy shall provide for the immediate notification of the City by the insurer of any cancellation of any policy.

(E) The permit holder's location or place of business shall be only in those areas or zones within the City where commercial activities are authorized under applicable zoning law; provided, that the sale of those fireworks authorized by **Section 7-9-5** of this Article shall not be deemed an enlargement of an existing nonconforming use.

(F) The applicant shall post with the City a performance bond or a cash deposit in an amount not less than **Two Hundred Dollars (\$200.00)** conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that the applicant removes the temporary stand and cleans up all debris to the satisfaction of the City. In the event the applicant fails to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he or she has failed to remove the stand and clean up all debris by the **tenth (10th) of July** following the sales period.

(G) No seller's permit shall be issued for a location which fails to meet the criteria set forth in **Section 7-9-11** of this Article, including the minimum stand separation requirement. When necessary, in order to determine priority as to a proposed location, the earliest date and time of filing of an application for a seller's permit with the City Clerk shall be controlling.

7-9-10 SALE FROM STANDS – EXCEPTIONS. All approved fireworks as set forth in **Section 7-9-5** of this Article except toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick or novelty device not classified as common fireworks, shall be sold and distributed only from temporary stands.

7-9-11 STANDARDS FOR TEMPORARY STANDS. The temporary stands of all seller's permit holders shall conform to the following minimum standards and conditions:

(A) Temporary fireworks stands need not comply with all provisions of the Building Code; provided, however, that all such stands be erected under the supervision of the City Building Inspector, who shall require all stands to be constructed in a safe manner ensuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, the wiring shall conform to the electrical code.

(B) No temporary fireworks stand shall be located within **fifty (50) feet** of any other building or structure, nor within **two hundred fifty (250) feet** of any gasoline station, oil storage tank or premises where flammable liquids or gases are kept or stored.

(C) Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.

(D) Each temporary fireworks stand shall have, in a readily accessible place, at least two, **two and one-half (2½) gallon** pressurized water fire extinguishers which are in good working order.

(E) All weeds, grass, and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area to a distance of not less than **twenty-five (25) feet**, measured from the exterior walls of the temporary fireworks stand.

(F) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than **fifty (50) feet** measured from the exterior walls of the temporary fireworks stand. Signs stating: **"No Smoking Within 50 Feet"** shall be posted on the exterior of each wall of the temporary fireworks stand.

(G) Each temporary fireworks stand shall have a person who is **eighteen (18) years** old or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the Fire Chief.

(H) All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by **12:00 Noon** on the **seventh (7th) day of July** of each year.

(I) No temporary fireworks stand shall be located within **five hundred (500) feet** of any other temporary fireworks stand.

(J) Each temporary fireworks stand shall have provisions for sufficient off-street parking, at least **fifteen (15) spaces**, to avoid impeding a continuous flow of traffic at entrances and exits from the premises.

(K) No person shall discharge any fireworks within **two hundred fifty (250) feet** of the exterior walls of any temporary fireworks stand. Signs stating: **"No discharge of fireworks within 250 feet."** shall be posted on the exterior of all walls of the temporary fireworks stand.

7-9-12 STANDARDS FOR PUBLIC FIREWORKS DISPLAYS. All public fireworks displays shall conform to the following minimum standards and conditions:

(A) All public fireworks displays shall be planned, organized and discharged by pyrotechnician, "Pyrotechnician" means an individual who by experience and training has demonstrated the required skill and ability for safety setting up and discharging displays of special fireworks. All individuals shall have a license under the provisions of the Pyrotechnic Distributor and Operator Licensing Act. **(225 ILCS 227)**

(B) A permit must be obtained from the City and approved by the Fire Chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his or her address, the name of the Pyrotechnician and his or her address; the exact location, date and time of the proposed display; the number, type and class of fireworks to be displayed the manner in which the fireworks are being stored prior to the public fireworks display; and shall include the name and address of the insurance company providing the bond required.

(C) A drawing shall be submitted to the Fire Chief showing a plan view of the fireworks discharge site and the surrounding area within a **five hundred (500) foot** radius.

The drawing shall include all structures, fences, barricades, street fields, streams and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

(D) When, in the opinion of the Fire Chief, such requirement is necessary to preserve the public health, safety and welfare, the permit may require that a Fire Department pumper and a minimum of two trained firefighters shall be on site **thirty (30) minutes** prior to and after the shooting of the event. The exhibitor shall repay the City for all costs to firefighters for such time.

(E) All combustible debris and trash shall be removed from the area of discharge for a distance of **three hundred (300) feet** in all directions.

(F) All unfired or "dud" fireworks shall be disposed of in a safe manner.

(G) A minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site.

(H) The permit shall be immediately revoked at any time the Fire Chief or a designee deems such revocation is necessary due to noncompliance, weather conditions such as, but not limited to, extremely low humidity or high winds. The display shall also be cancelled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display.

(I) Areas of public access shall be determined by the Fire Chief or designer and maintained in an approved manner.

7-9-13 USE OF FIREWORKS IN PUBLIC PARKS. It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park, owned by the City, provided, however, that such use shall be permitted under the following circumstances:

(A) This provision shall not apply to possession of fireworks in the otherwise lawful use of public rights of way such as sidewalks and planting strips. This subsection shall not be a defense to a charge of obstructing traffic or otherwise obstructing a public right of way.

(B) The Fire Chief shall designate limited areas for use during the hours permitted by the Article for the discharge of fireworks as allowed by **Section 7-9-5** of this Article. Otherwise lawful discharge and possession of fireworks as allowed by **Section 7-9-5** in such areas shall not be a violation of this Section. In doing so, the Fire Chief shall consider:

- (1) The sensitivity of the area's environment, wildlife and wildlife habitat;
- (2) The inconvenience and nuisance to abutting property owners;
- (3) The safety and suitability of the area as a place for the discharge of fireworks; and
- (4) Danger of fire or other destruction of public property and improvements from the use of the fireworks.

(C) Upon designation of any area, it shall be signed and posted by **July 1st** of each year for use on **July 4th** between the hours of **9:00 A.M.** and **11:00 P.M.** Designation of any area may be appealed in writing to the City Council by any citizen of the City. The decision of the City Council shall be final.

(D) Nothing in this Article shall be deemed to limit the authority of the City Council to allow event display of special fireworks under a permit issued in accordance with the provisions of the Code and State statutes.

7-9-14 **SPECIAL EFFECTS FOR ENTERTAINMENT MEDIA.** This Code does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio, or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the City in accordance with **Sections 7-9-7 and 7-9-8** of this Code.

7-9-15 **NONPROHIBITED ACTS.** This Code does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

7-9-16 **APPLICABILITY.** The provisions of this Code shall not be applicable to toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick nor to novelty device not classified as common fireworks.

7-9-17 **STATUS OF STATE LAW.** This Code is intended to implement applicable State law, to wit, **Chapters 225 ILCS 227 and 425 ILCS 35**, and shall be construed in connection, with that law and any and all rules or regulations issued pursuant to that law.

7-9-18 **ENFORCEMENT.** The Fire Chief or designee, is authorized to enforce all provisions of this Code and, in addition to criminal sanctions or civil remedies, may revoke any permit issued pursuant to this Code upon any failure or refusal of the permittee to comply with the lawful orders and directives of the Fire Chief or designee, or to comply with any provisions of this Code or the requirements of the community development code relating to temporary structures.

7-9-19 **RECKLESS DISCHARGE OR USE PROHIBITED.** It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another.

**CITY CLERK
550 N Broad St
Carlinville, IL 62626-1019**

BUSINESS LICENSE APPLICATION

APPLICATION NO. _____ **ANNUAL LICENSE FEE DUE MAY 1ST: \$** _____

(PLEASE TYPE OR PRINT)

1. Applicant's Name: _____ PHONE () _____
2. Applicant's Address _____
City _____ State _____ ZIP _____
3. Length of resident at above address _____ years _____ months
4. Applicant's Date of Birth ____/____/____
5. Marital Status _____ Name of Spouse _____
6. Citizenship of Applicant _____
7. Business Name _____ PHONE () _____
8. Business Address _____
City _____ State _____ ZIP _____
9. Length of Employment _____ years _____ months
10. All residences and addresses for the last three (3) years if different than above:

11. Name and Address of employers during the last three (3) years if different than above:

12. List the last three (3) municipalities where applicant has carried on business immediately preceding the date of application:

13. A description of the subject matter that will be used in the applicant's business:

14. Has the applicant ever had a license in this municipality? [] Yes [] No
If so, when _____
15. Has a license issued to this applicant ever been revoked? [] Yes [] No
If "yes", explain: _____
16. Has the applicant ever been convicted of a violation of any of the provisions of this Code, etc.?
[] Yes [] No If "yes", explain: _____
17. Has the applicant ever been convicted of the commission of a felony? [] Yes [] No
If "yes", explain: _____
18. LIST ALL OWNERS IF LICENSE IS FOR LOCAL BUSINESS (PERMANENT):

19. LICENSE DATA: Term of License _____
Fee for License \$ _____
License Classification _____

The following documents must be attached to this application:

- | | |
|---|--|
| <input type="checkbox"/> Copy of Illinois Sales Tax Registration | <input type="checkbox"/> Copy of local health permit (if applicable) |
| <input type="checkbox"/> Copy of Certificate of Liability Insurance | <input type="checkbox"/> Copy of Vehicle Insurance (if applicable) |

OFFICIAL BUSINESS LICENSE

STATE OF ILLINOIS)
COUNTY OF MACOUPIN) ss.
CITY OF CARLINVILLE)

ILLINOIS SALES TAX NUMBER _____

TO ALL TO WHOM THESE PRESENTS SHALL BECOME GREETINGS:

WHEREAS _____,
having complied with all the requirements of the laws of the State of Illinois and the ordinances of the **City of Carlerville, Illinois** in this behalf made and required license is, by authority of the **City of Carlerville, Illinois** given and granted to the _____
_____ to _____ at _____
_____ in the **City of Carlerville, County of Macoupin, and State of Illinois**, from the _____ date hereof until the _____ day of _____, _____, said _____
_____ to be subject to all laws of the State of Illinois and all ordinances of the **City of Carlerville, Illinois**, not in conflict therewith, which are now or hereafter may be in force touching the premises.

(L.S.)

Given under the hand of the Mayor of the **City of Carlerville, County of Macoupin, Illinois** and the seal thereof, this _____ day of _____, 20__.

MAYOR
CITY OF CARLINVILLE

COUNTERSIGNED:

CITY CLERK
CITY OF CARLINVILLE

(SEAL)

**CITY CLERK
550 N Broad St
Carlinville, IL 62626-1019**

APPLICATION FOR RAFFLE LICENSE

Organization Name: _____
Address: _____
Type of Organization: _____
Length of Existence of Organization: _____

If organization is incorporated, what is the date and state of incorporation?
Date: _____ State: _____

List the organization's presiding officer, secretary, raffle manager, and any other members responsible for the conduct and operation of the raffle.

PRESIDENT:

SECRETARY: _____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

RAFFLE MANAGER: _____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

List any other members responsible for the conduct and operation of the raffle on the back of this page. List name, date of birth, address, social security number, and phone number.

_____ This request is for a single raffle license.
_____ This request is for a multiple raffle license.
_____ This request is for a poker run license.

The aggregate retail value of all prizes to be awarded: \$ _____
Maximum retail value of each prize to be awarded in the raffle: \$ _____
The maximum price charged for each raffle chance issued: _____
The area or areas in which raffle chances will be sold or issued: _____

Time period during which raffle chances will be issued or sold: _____

The date, time and location at which winning chances will be determined: _____

Date: _____ Time: _____
Location: _____

If multiple raffles license is requested, list on a separate sheet, the date, time, and location for each raffle to be held within the one (1) year period of time from the date of the issuance of the license.

THE APPLICATION FEES ARE NONREFUNDABLE EVEN IF THE APPLICATION IS REJECTED BY THE CITY COUNCIL.

SINGLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____

Period of time during which raffle chances may be sold: _____

Maximum price charged for each raffle chance issued or sold: \$ _____

Date, time and location at which winning chance will be determined:

Date: _____ Time: _____

Location: _____

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the City of Carlinville and the Corporate Seal thereof, this _____ day of _____, _____.

MAYOR
CITY OF CARLINVILLE

CITY CLERK
CITY OF CARLINVILLE

(SEAL)

MULTIPLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____

Period of time during which raffle chances may be sold: _____

Maximum price charged for each raffle chance issued or sold: \$ _____

This is a license for multiple raffles to be held within the maximum period of one (1) year from date of this license. The date, the date and location of each raffle is as set forth on Exhibit 1, attached hereto and hereby incorporated by reference.

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the City of Carlinville and the Corporate Seal thereof, this _____ day of _____, _____.

MAYOR
CITY OF CARLINVILLE

CITY CLERK
CITY OF CARLINVILLE

(SEAL)

EXHIBIT 1

The following is the date, time and location at which winning chances will be determined for multiple raffles to be held within a maximum period of one (1) year from the date of issuance of this license.

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

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:

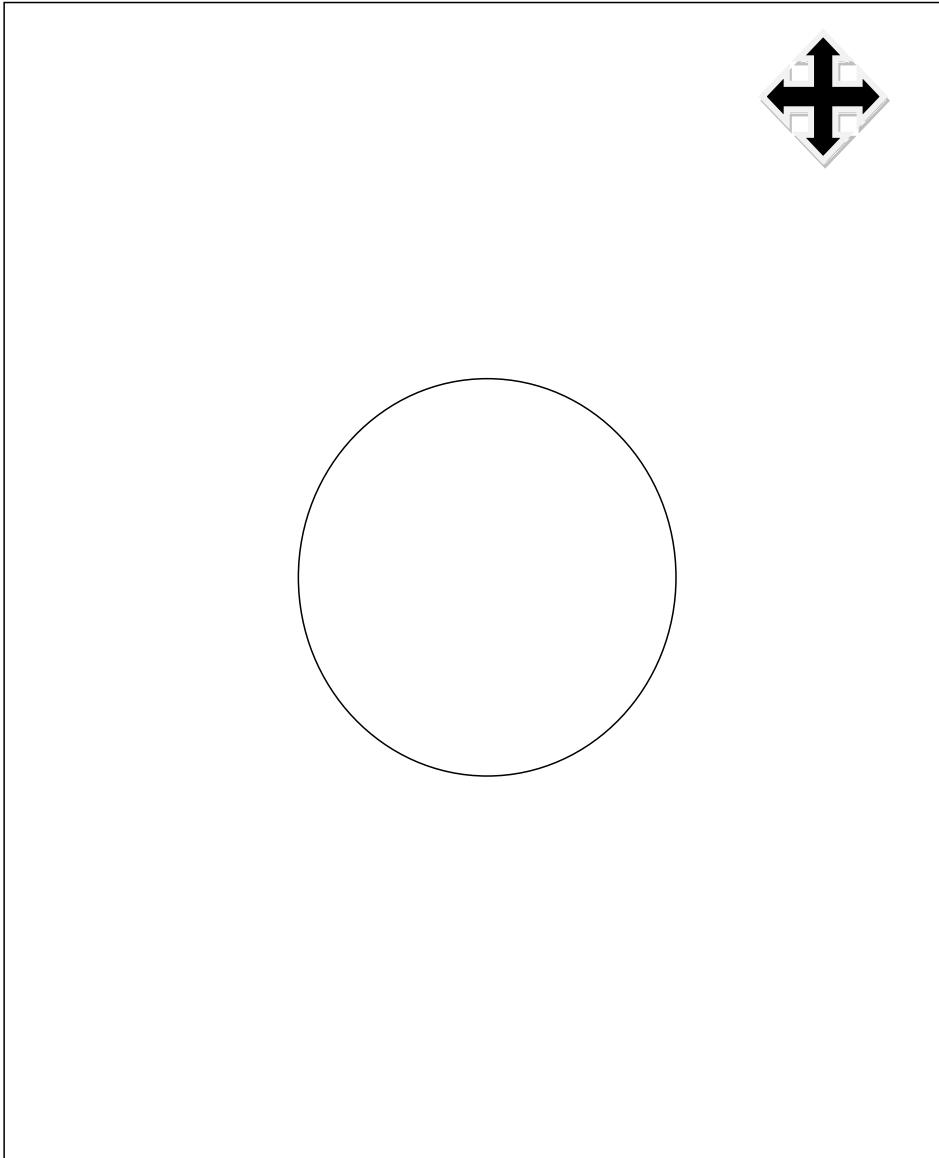


EXHIBIT "B"

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 multi-shot 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.

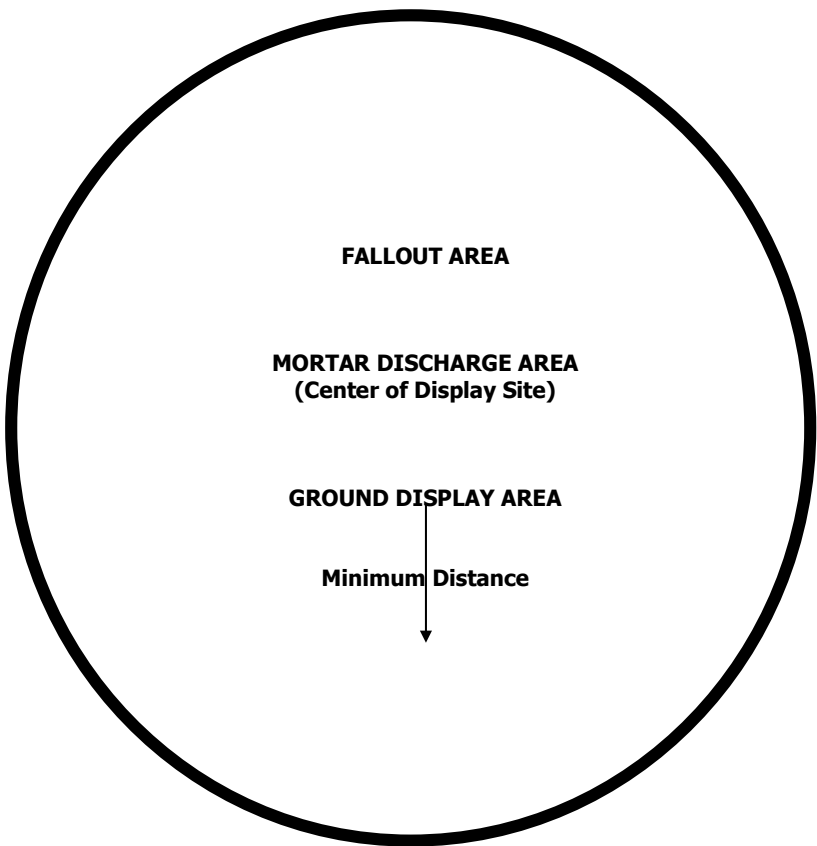
PART H – HALTING DISPLAY

- 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



SPECTATOR VIEWING AREA

VEHICLE PARKING AREA

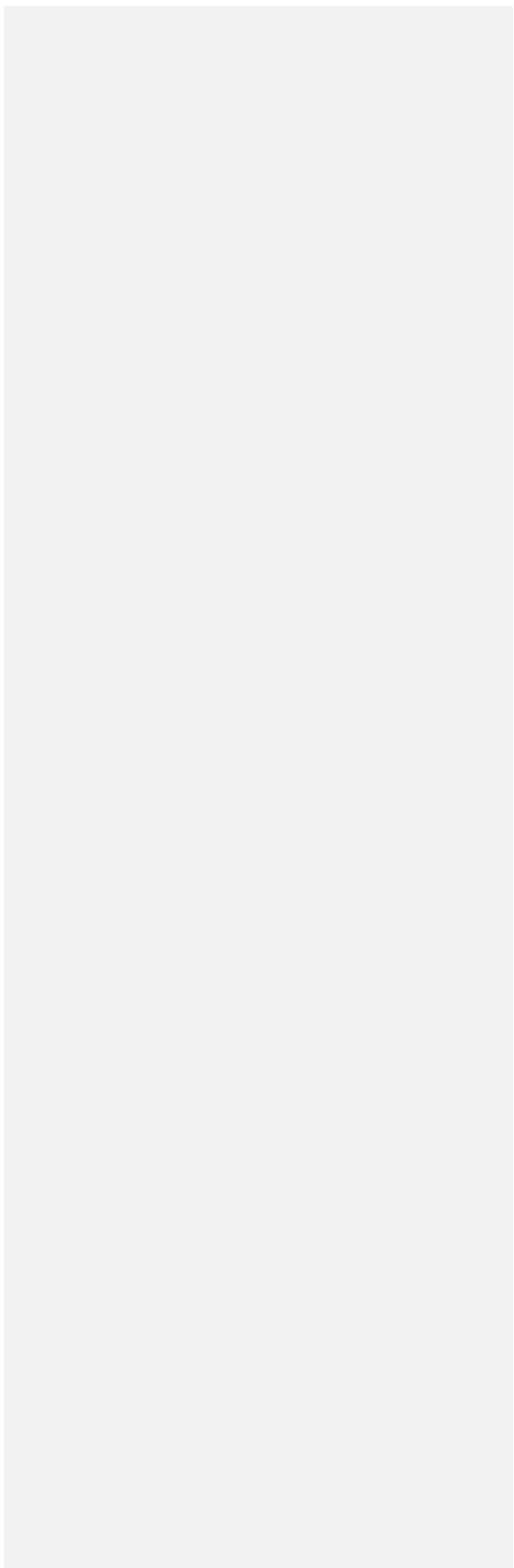


EXHIBIT "D"

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

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CHAPTER 8

CABLE TELEVISION

ARTICLE I – GENERAL REGULATIONS

DIVISION I – DEFINITION OF TERMS

8-1-1 TERMS. For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the "Cable Act"), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number, include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

(A) **"Cable System", "Cable Service", "Cable Operator" and "Basic Cable Service"** shall be defined as set forth in Section 602 of the Cable Act [47 U.S.C. Section 522].

(B) **"Cable Act"** shall mean Title VI of the Communications Act of 1934, as amended [47 U.S.C. Section 521, et seq.].

(C) **"Council"** shall mean the City Council, the governing body of the City of Carlinville, Illinois.

(D) **"FCC"** shall mean the Federal Communications Commission and any successor governmental entity thereto.

(E) **"Franchise"** shall mean the non-exclusive rights granted pursuant to this franchise to construct and operate a Cable System along the public ways within all or a specified area in the Service Area.

(F) **"Grantor"** shall mean the City of Carlinville, Illinois.

(G) **"Grantee"** shall mean Charter Communications Entertainment I, LLC, d/b/a Charter Communications (Charter) or its lawful successor, transferee or assignee.

(H) **"Gross Revenue"** means any revenue, as determined in accordance with generally accepted accounting principals received by the Grantee from the operation of the Cable System to provide Cable Services in the Service Area, provided, however, that such phrase shall not include: (1) any taxes, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency, including the FCC User Fee and franchise fee; and (2) unrecovered bad debt.

(I) **"Person"** shall mean an individual, partnership, association, organization, corporation, trust or government entity.

(J) **"School"** shall mean any school at any educational level operated within the Service Area by any public, private or parochial school system, but limited to, elementary, junior high school, and high school (K-12).

(K) **"Service Area"** shall mean the geographic boundaries of the Franchise Authority, and shall include any additions thereto by annexation or other legal means, subject to the exception in **Section 8-1-20** hereto.

(L) **"State"** shall mean the State of Illinois.

(M) **"Street"** shall include each of the following located within the Service Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights-of-way and similar public ways and

extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Service Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

(N) **"Subscriber"** shall mean any person lawfully receiving Cable Service from the Grantee.

8-1-2 RESERVED.

DIVISION II – GRANT OF FRANCHISE

8-1-3 GRANT. The Grantor franchise hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms; any poles, wires, cable, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation of a Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, State or local law.

8-1-4 TERM. The Franchise and the rights, privileges and authority hereby granted shall be for an initial term of **fifteen (15) years**, commencing on the effective date of this Franchise as set forth herein.

8-1-5 POLICE POWERS AND CONFLICTS WITH FRANCHISE. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes, which are the result of the Grantor's exercise of its lawful general police power, the Grantor may not take any unilateral action, which materially changes the explicit mutual promises in this contract. Any changes to this Franchise must be made in writing signed by the Grantee and the Grantor. In the event of any conflict between this Franchise and any Grantor ordinance or regulation, this Franchise will prevail.

8-1-6 CABLE SYSTEM FRANCHISE REQUIRED. No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Service Area or be allowed to operate without a Cable System Franchise.

8-1-7 RESERVED.

DIVISION III – FRANCHISE RENEWAL

8-1-8 **PROCEDURES FOR RENEWAL.** The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee’s Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act [47 U.S.C. Section 546], or any such successor statute.

8-1-9 **RESERVED.**

DIVISION IV – INDEMNIFICATION AND INSURANCE

8-1-10 **INDEMNIFICATION.** The Grantee shall, by acceptance of the Franchise granted herein, defend the Grantor, its officers, boards, commissions, agents, and employees for all claims for injury to any person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within **ten (10) days** of receipt of a claim or action pursuant to this Section. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor’s use of the Cable System.

8-1-11 **INSURANCE.**

(A) The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers’ Compensation	Statutory Limits
Commercial General Liability	[\$1,000,000] per occurrence, Combined Single Liability (C.S.L.) [\$2,000,000] General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	[\$1,000,000] per occurrence C.S.L.
Umbrella Liability	[\$1,000,000] per occurrence C.S.L.

(B) The Grantor shall be added as an additional insured to the above General Liability, Auto Liability and Umbrella Liability insurance coverage.

(C) The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage.

8-1-12 **RESERVED.**

DIVISION V – SERVICE OBLIGATIONS

8-1-13 **NO DISCRIMINATION.** Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex.

8-1-14 **PRIVACY.** The Grantee shall fully comply with the privacy rights of Subscribers as contained in Section 631 of the Cable Act (47 U.S.C. Section 551).

8-1-15 **RESERVED.**

DIVISION VI – SERVICE AVAILABILITY

8-1-16 **SERVICE AREA.** The Grantee shall make Cable Service distributed over the Cable System available to every residence within the Service Area where there is a minimum density of at least **forty (40) residences** per linear strand mile of cable as measured from Grantee's closest trunk line or distribution cable that is actively delivering Cable Service as of the date of such request for service. If the resident is located within **one hundred twenty-five (125) feet** of Grantee's feeder cable, the Cable Service will be provided at Grantee's published rate for standard installation. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where: another operator is providing Cable Service; into an annexed area which is not contiguous to the present Service Area of the Grantee; or, into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

8-1-17 **SUBSCRIBER CHARGES FOR EXTENSION OF THE CABLE SYSTEM.** No Subscriber shall be refused service arbitrarily, however, if an area does not meet the density requirements of **Section 8-1-16** above, the Grantee shall only be required to extend the Cable System to Subscribers in that area if the Subscribers are willing to share the capital costs of extending the Cable System. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any standard/non-standard installation charges to extend the Cable System from the tap to the residence.

8-1-18 **NEW DEVELOPMENT UNDERGROUND.** In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least **thirty (30) days** prior notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee's expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within **five (5) working days** of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the **five (5) day** period, the cost of new trenching is to be borne by Grantee.

8-1-19 **RESERVED.**

DIVISION VII – CONSTRUCTION AND TECHNICAL STANDARDS

8-1-20 **COMPLIANCE WITH CODES.** All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.

8-1-21 **CONSTRUCTION STANDARDS AND REQUIREMENTS.** All of the Grantee's plant and equipment, including but not limited to the antenna site, head-end and distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices and performed by experienced maintenance and construction personnel.

8-1-22 **SAFETY.** The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

8-1-23 **NETWORK TECHNICAL REQUIREMENTS.** The Cable System shall be operated so that it is capable of continuous **twenty-four (24) hour** daily operation, capable of meeting or exceeding all applicable federal technical standards, as they may be amended from time to time, and operated in such a manner as to comply with all applicable FCC regulations.

8-1-24 **PERFORMANCE MONITORING.** Grantee shall test the Cable System consistent with the FCC regulations.

8-1-25 **RESERVED.**

DIVISION VIII – CONDITIONS ON STREET OCCUPANCY

8-1-26 **GENERAL CONDITIONS.** Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property without obtaining all legally required permits of the Grantor.

8-1-27 **UNDERGROUND CONSTRUCTION.** The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event that any telephone or electric utilities are reimbursed by the Grantor or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as any telephone, electric or other utilities.

8-1-28 **CONSTRUCTION CODES AND PERMITS.** The Grantee shall obtain all legally required permits before commencing any work requiring a permit, including the opening or disturbance of any Street within the Service Area. The Grantee shall cooperate with the Grantor in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. The Grantee shall adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the Cable System in the Service Area, provided that such codes are of general applicability and such codes are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Service Area.

8-1-29 **SYSTEM CONSTRUCTION.** All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8-1-30 **RESTORATION OF PUBLIC WAYS.** Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

8-1-31 **REMOVAL IN EMERGENCY.** Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the Grantor to remove any of the Grantee's facilities, no charge shall be made by the Grantee against the Grantor for restoration and repair, unless such acts amount to gross negligence by the Grantor.

8-1-32 **TREE TRIMMING.** Grantor or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

8-1-33 **RELOCATION FOR THE GRANTOR.** The Grantee shall, upon receipt of reasonable advance written notice, to be not less than **ten (10) business days**, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to their facilities.

8-1-34 **RELOCATION FOR A THIRD PARTY.** The Grantee shall, on the request of any person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such person benefiting from the relocation and the Grantee is given reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this Section, "reasonable advance written notice" shall be no less than **ten (10) business days** in the event of a temporary relocation and no less than **one hundred twenty (120) days** for a permanent relocation.

8-1-35 **REIMBURSEMENT OF COSTS.** If funds are available to any person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

8-1-36 **EMERGENCY USE.** If the Grantee provides an Emergency Alert System ("EAS"), then the Grantor shall permit only appropriately trained and authorized Persons to operate the EAS equipment and shall take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use thereof, or any loss or damage to the Cable System. The Grantor shall hold the Grantee, its employees, officers and assigns harmless from any claims or costs arising out of use of the EAS.

8-1-37 **RESERVED.**

DIVISION IX – SERVICE AND RATES

8-1-38 **PHONE SERVICE.** The Grantee shall maintain a toll-free telephone service operated such that complaints and requests for repairs or adjustments may be received at any time.

8-1-39 **NOTIFICATION OF SERVICE PROCEDURES.** The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. Grantee shall give the Grantor **thirty (30) days** prior notice of any rate increases, channel lineup or other substantive service changes.

8-1-40 **RATE REGULATION.** Grantor shall have the right to exercise rate regulation to the extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Grantor. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC.

8-1-41 **CONTINUITY OF SERVICE.** It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored.

8-1-42 **RESERVED.**

DIVISION X – FRANCHISE FEE

8-1-43 **AMOUNT OF FEE.** Grantee shall pay to the Grantor an annual franchise fee in an amount equal to **five percent (5%)** of the annual Gross Revenue. Such payment shall be in addition to taxes of general applicability owed to the Grantor by the Grantee that are not included as franchise fee under federal law.

8-1-44 **PAYMENT OF FEE.** Payment of the fee due the Grantor shall be made on an annual basis, and within **forty-five (45) days** of the close of each calendar year. The payment period shall commence as of the Effective Date of the Franchise. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges, deductions and computations for the period covered by the payment.

8-1-45 **ACCORD AND SATISFACTION.** No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

8-1-46 **LIMITATION ON RECOVERY.** In the event that any Franchise payment or recomputed payment is not made on or before the dates specified herein, Grantee shall pay an interest charge, computed from such due date, at the annual rate of **one percent (1%)** over the prime interest rate. The period of limitation for recovery of any franchise fee payable hereunder shall be **three (3) years** from the date on which payment by the Grantee was due.

8-1-47 **RESERVED.**

DIVISION XI – TRANSFER OF FRANCHISE

8-1-48 **FRANCHISE TRANSFER.** The Franchise granted hereunder shall not be assigned, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, which such consent shall not be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within **thirty (30) days** of receiving the request for transfer, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken any action on the Grantee's request for transfer within **one hundred twenty (120) days** after receiving the request, consent by the Grantor shall be deemed given.

8-1-49 **RESERVED.**

DIVISION XII – RECORDS, REPORTS AND MAPS

8-1-50 **REPORTS REQUIRED.** The Grantee's schedule of charges, contract or application forms for regular Subscriber service, policy regarding the processing of Subscriber complaints, delinquent Subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Grantee's policy in connection with its Subscribers shall be filed with the Grantor upon written request.

8-1-51 **RECORDS REQUIRED.** The Grantee shall at all times maintain:
(A) A record of all complaints received regarding interruptions or degradation of Cable Service shall be maintained for **one (1) year**.

(B) A full and complete set of plans, records and strand maps showing the location of the Cable System.

8-1-52 **INSPECTION OF RECORDS.** Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice to examine during normal business hours and on a nondisruptive basis any and all records as is reasonably necessary to ensure Grantee's compliance with the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than **three (3) years**, except for service complaints, which shall be kept for **one (1) year** as specified above. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books; records or maps that constitute proprietary or confidential information to the extent Grantee make the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by state and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person.

8-1-53 **RESERVED.**

DIVISION XIII – COMMUNITY PROGRAMMING

8-1-54 **SERVICE TO SCHOOLS AND BUILDINGS.** The Grantee shall maintain, without charge, **one (1)** outlet to each School, located in the Service Area served by the Cable System and will provide free Basic and Expanded Basic Service, for so long as the Cable System remains in operation in the Service Area. Any such School may install, at its expense, such additional outlets for classroom purposes as it desires, provided that such installation shall not interfere with the operation of Grantee's Cable System, and that the quality and manner of installation of such additional connections shall have been approved by the Grantee and shall comply with all local, State and federal laws and regulations. In addition, the Grantee shall furnish to the Grantor, without installation or monthly charges, **one (1) outlet** to each Police and Fire Station, each public library and City Hall.

8-1-55 **LIMITATIONS ON USE.** The Cable Service provided pursuant to this Section shall not be used for commercial purposes and such outlets shall not be located in areas open to the public. The Grantor shall take reasonable precautions to prevent any use of the Grantee's Cable System that results in the inappropriate use thereof or any loss or damage to the Cable System. The Grantor shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by **Section 8-1-54** above.

The Grantee shall not be required to provide an outlet to any such building where a standard drop of more than **two hundred (200) feet** is required, unless the Grantor or building owner/occupant agrees to pay the incremental cost of any necessary extension or installation.

8-1-56 **RESERVED.**

DIVISION XIV – ENFORCEMENT OR REVOCATION

8-1-57 **NOTICE OF VIOLATION.** If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

8-1-58 **GRANTEE'S RIGHT TO CURE OR RESPOND.** The Grantee shall have **thirty (30) days** from receipt of the Violation Notice to: (1) respond to the Grantor, contesting the assertion of noncompliance, or (2) to cure such default, or (3) if, by the nature of default, such default cannot be cured within the **thirty (30) day** period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

8-1-59 **PUBLIC HEARING.** If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Council shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least **twenty (20) days** prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with **Section 8-1-67** hereof. The Grantee shall have the right to present evidence and to question the witnesses. The Grantor shall determine if the Grantee has committed a violation and shall make written findings of fact relative to its determination. If a violation is found, the Grantee may petition for reconsideration before any competent tribunal having jurisdiction over such matters.

8-1-60 **ENFORCEMENT.** Subject to applicable federal and state law, in the event the Grantor, after the hearing set forth in **Section 8-1-59** above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- (A) Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- (B) Commence an action at law for monetary damages or seek other equitable relief; or
- (C) In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with **Section 8-1-61** below.

8-1-61 REVOCATION.

(A) Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have **sixty (60) days** from such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least **thirty (30) days** prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise.

(B) At the hearing, the Council shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within **twenty (20) business days**. The decision of the Council shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Council *de novo*.

8-1-62 RESERVED.

DIVISION XV – MISCELLANEOUS PROVISIONS

8-1-63 FORCE MAJEURE. The Grantee shall not be held in default under, on in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

8-1-64 MINOR VIOLATIONS. Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to penalties, fine, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise territory, or where strict performance would result in practical difficulties and hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

8-1-65 ACTION OF PARTIES. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8-1-66 **EQUAL PROTECTION.** In the event that the Grantor grants **one (1)** or more franchise(s) or similar authorizations, for the construction, operation and maintenance of any communication facility, which shall offer services substantially equivalent to services offered by a Cable System, it shall not make the grant on more favorable or less burdensome terms. If said other franchise(s) contain provision imposing lesser obligations on the company(s) thereof than are imposed by the provisions of this Franchise, the Grantee may petition the Grantor for a modification of this Franchise. The Grantee shall be entitled, with respect to said lesser obligations, to such modification(s) of this Franchise as to insure fair and equal treatment to this Franchise and said other agreements and to provide all parties equal protection under the law.

8-1-67 **NOTICES.**

(A) All notices, reports or demands required to be given under this Franchise shall be in writing and shall be deemed to be given upon delivery if delivered personally to the person designated below, or on the **fifth (5th) day** following mailing if sent in accordance with the notice requirement of this Section and deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, or on the next business day if sent by express mail or overnight air courier addressed to the party to which notice is being given, as follows:

As stated in contract with provider.

(B) The Grantor and Grantee may designate alternative addresses by giving notice to the other in the manner provided for in this Section.

8-1-68 **PUBLIC NOTICE.** Minimum public notice of any public meeting relating to this Franchise shall be by publication at least once in a newspaper of general circulation in the area at least **twenty (20) days** prior to the meeting and a posting at the administrative buildings of the Grantor.

8-1-69 **SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

8-1-70 **ENTIRE AGREEMENT.** This Franchise sets forth the entire agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party to another with respect to the matter of this Franchise. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and superseded hereby and thereby.

(Ord. No. 1503; 11-15-04)

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**ARTICLE II – CABLE/VIDEO SERVICE PROVIDER FEE
AND PEG ACCESS FEE**

8-2-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Cable Service"** means that term as defined in 47 U.S.C. § 522(6).

(B) **"Commission"** means the Illinois Commerce Commission.

(C) **"Gross Revenues"** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City.

(1) Gross revenues shall include the following:

(a) Recurring charges for cable or video service.

(b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(c) Rental of set top boxes and other cable service or video service equipment.

(d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

(e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(g) A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).

(i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless

- the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
- (j) The service provider fee permitted by 220 ILCS 5/22-501.
- (2) Gross revenues do not include any of the following:
- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/22-501.
 - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
 - (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
 - (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/22-501 with respect to the service.
 - (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
 - (f) Security deposits collected from subscribers.
 - (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/22-501 which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/22-501.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/22-501 by the holder to a City for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

8-2-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the City.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues.

(C) **Notice to the City.** The holder shall notify the City at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the City.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/22-501 to the City.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/22-501 with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under the law.

8-2-3 PEG ACCESS SUPPORT FEE IMPOSED.

(A) **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to **Section 8-2-2(B)**.

(B) **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City.

(C) **Payment.** The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in **Section 8-2-2(D)**.

(D) **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/22-501** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-2-3(B)**.

8-2-4 APPLICABLE PRINCIPLES. All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

8-2-5 NO IMPACT ON OTHER TAXES DUE FROM HOLDER. Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

8-2-6 AUDITS OF CABLE/VIDEO SERVICE PROVIDER.

(A) **Audit Requirement.** The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

8-2-7 **LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, **50 ILCS 45/1 *et seq.***

(220 ILCS 5/22-501)

ARTICLE III - CABLE AND VIDEO CUSTOMER PROTECTION LAW

8-3-1 **CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.**

(A) **Adoption.** The regulations of **220 ILCS 5/22-501** are hereby adopted by reference and may be applicable to the cable or video providers offering services within the City's boundaries.

(B) **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the City's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the City.

8-3-2 **ENFORCEMENT.** The City does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the City.

8-3-3 **CUSTOMER CREDITS.** The City hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of **220 ILCS 5/22-501(s)** and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

8-3-4 **PENALTIES.** The City, pursuant to **220 ILCS 5/22-501(r)(1)**, does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B) The City shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).

ARTICLE IV – SMALL WIRELESS FACILITIES

8-4-1 **PURPOSE AND SCOPE.**

(A) **Purpose.** The purpose of this Article is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City's jurisdiction, or outside the rights-of-way on property zoned by the City exclusively for commercial or industrial use, in a manner that is consistent with the Act.

(B) **Conflicts and Other Ordinances.** This Article supersedes all ordinances or parts of ordinances adopted prior to hereto that are in conflict herewith, to the extent of such conflict.

(C) **Conflicts with State and Federal Law.** In the event that applicable federal or state laws or regulations conflict with the requirements of this Article, the wireless provider shall comply with the requirements of this Article to the maximum extent possible without violating federal or state laws or regulations.

8-4-2 **DEFINITIONS.** For the purposes of this Article, the following terms shall have the following meanings:

Antenna: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable codes: Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

Applicant: Any person who submits an application and is a wireless provider.

Application: A request submitted by an applicant to the City for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

Collocate or collocation: To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service: Cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53) as amended; or wireless service other than mobile service.

Communications service provider: A cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC: The Federal Communications Commission of the United States.

Fee: A one-time charge.

Historic district or historic landmark: A building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the City pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or

where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law: A federal or state statute, common law, code, rule, regulation, order, or local ordinance or resolution.

Micro wireless facility: A small wireless facility that is not larger in dimension than **twenty-four (24) inches** in length, **fifteen (15) inches** in width, and **twelve (12) inches** in height and that has an exterior antenna, if any, no longer than **eleven (11) inches**.

Municipal utility pole: A utility pole owned or operated by the City in public rights-of-way.

Permit: A written authorization required by the City to perform an action or initiate, continue, or complete a project.

Person: An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

Public safety agency: The functional division of the federal government, the state, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate: A recurring charge.

Right-of-way: The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include City-owned aerial lines.

Small wireless facility: A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than **six (6) cubic feet** in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than **six (6) cubic feet**; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than **twenty-five (25) cubic feet** in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility pole: A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless facility: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (1) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless infrastructure provider: Any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the City.

Wireless provider: A wireless infrastructure provider or a wireless services provider.

Wireless services: Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

Wireless services provider: A person who provides wireless services.

Wireless support structure: A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

8-4-3 REGULATION OF SMALL WIRELESS FACILITIES.

(A) **Permitted Use.** Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in **Section 8-4-3(C)(9)** regarding Height Exceptions or Variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

(B) **Permit Required.** An applicant shall obtain one or more permits from the City to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

- (1) **Application Requirements.** A wireless provider shall provide the following information to the City, together with the City's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
 - (a) Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
 - (b) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
 - (c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
 - (d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
 - (e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
 - (f) Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.

- (g) In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the City, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

(2) **Application Process.** The City shall process applications as follows:

- (a) The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

- (b) An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the City fails to approve or deny the application within **ninety (90) days** after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than **seventy-five (75) days** after the submission of a completed application.

The permit shall be deemed approved on the latter of the **ninetieth (90th) day** after submission of the complete application or the **tenth (10th) day** after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Article.

- (c) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within **one hundred twenty (120) days** after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the City in writing of its intention to invoke the deemed approved remedy no sooner than **one hundred five (105) days** after the submission of a completed application.

The permit shall be deemed approved on the latter of the **one hundred twentieth (120th) day** after submission of the complete application or the **tenth (10th) day** after the receipt of the deemed approved notice by the City. The receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Article.

- (d) The City shall deny an application which does not meet the requirements of this Article.
- If the City determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.
- The City shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the City denies an application.
- The applicant may cure the deficiencies identified by the City and resubmit the revised application once within **thirty (30) days** after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve or deny the revised application within **thirty (30) days** after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within **thirty (30) days** of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the City's review period.
- The applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.
- Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.
- (e) **Pole Attachment Agreement.** Within **thirty (30) days** after an approved permit to collocate a small wireless facility on a municipal utility pole, the City and the applicant shall enter into a Master Pole Attachment Agreement, provided by the City for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the City and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.
- (3) **Completeness of Application.** Within **thirty (30) days** after receiving an application, the City shall determine whether the application is complete and notify the applicant. If an application is incomplete, the City must specifically identify the missing

information. An application shall be deemed complete if the City fails to provide notification to the applicant within **thirty (30) days** after all documents, information and fees specifically enumerated in the City's permit application form are submitted by the applicant to the City.

Processing deadlines are tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing information.

- (4) **Tolling.** The time period for applications may be further tolled by:

- (a) An express written agreement by both the applicant and the City; or
- (b) A local, State or federal disaster declaration or similar emergency that causes the delay.

- (5) **Consolidated Applications.** An applicant seeking to collocate small wireless facilities within the jurisdiction of the City shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to **twenty-five (25)** small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the City may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The City may issue separate permits for each collocation that is approved in a consolidated application.

- (6) **Duration of Permits.** The duration of a permit shall be for a period of not less than **five (5) years**, and the permit shall be renewed for equivalent durations unless the City makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable City codes or any provision, condition or requirement contained in this Article.

If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable City code provisions or regulations in effect at the time of renewal.

- (7) **Means of Submitting Applications.** Applicants shall submit applications, supporting information and notices to the City by personal delivery at the City's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

(C)

Collocation Requirements and Conditions.

- (1) **Public Safety Space Reservation.** The City may reserve space on municipal utility poles for future public safety uses, for the City's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the City reasonably determines that the municipal utility pole cannot accommodate both uses.

- (2) **Installation and Maintenance.** The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Article. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.
- (3) **No Interference with Public Safety Communication Frequencies.** The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675. The City may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.
- (4) The wireless provider shall not collocate small wireless facilities on City utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole. However, the antenna and support equipment of the small wireless facility may be located in the communications space on the City utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole. For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.
- (5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

- (6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a City ordinance, written policy adopted by the City, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
- (7) **Alternate Placements.** Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the City may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within **one hundred (100) feet** of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.
- If the applicant refuses a collocation proposed by the City, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.
- (8) **Height Limitations.** The maximum height of a small wireless facility shall be no more than **ten (10) feet** above the utility pole or wireless support structure on which the small wireless facility is collocated.
- New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:
- (a) **ten (10) feet** in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the City, that is located within **three hundred (300) feet** of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the City, provided the City may designate which intersecting right-of-way within **three hundred (300) feet** of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
- (b) **forty-five (45) feet** above ground level.
- (9) **Height Exceptions or Variances.** If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a variance in

conformance with procedures, terms and conditions as shall be established by the Board of Trustees.

- (10) **Contractual Design Requirements.** The wireless provider shall comply with requirements that are imposed by a contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- (11) **Ground-mounted Equipment Spacing.** The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
- (12) **Undergrounding Regulations.** The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- (13) **Collocation Completion Deadline.** Collocation for which a permit is granted shall be completed within **one hundred eighty (180) days** after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within **sixty (60) days** after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed **three hundred sixty (360) days** after issuance of the permit. Otherwise, the permit shall be void unless the City grants an extension in writing to the applicant.

(D) **Application Fees.** Application fees are imposed as follows:

- (1) Applicant shall pay an application fee of **Six Hundred Fifty Dollars (\$650.00)** for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and **Three Hundred Fifty Dollars (\$350.00)** for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
- (2) Applicant shall pay an application fee of **One Thousand Dollars (\$1,000.00)** for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be

accompanied by the required application fee. Application fees shall be non-refundable.

- (4) The City shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - (a) routine maintenance;
 - (b) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the City at least **ten (10) days** prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with (d) under the Section titled Application Requirements; or
 - (c) the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are string between existing utility poles in compliance with applicable safety codes.
- (5) Wireless providers shall secure a permit from the City to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(E) **Exceptions to Applicability.** Nothing in this Article authorizes a person to collocate small wireless facilities on:

- (1) property owned by a private party or property owned or controlled by the City or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;
- (2) property owned, leased, or controlled by a part district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or
- (3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Article do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Article shall be construed to relieve any

person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Article.

(F) **Pre-Existing Agreements.** Existing agreements between the City and wireless providers that relate to the collection of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on City utility poles, that are in effect on **June 1, 2018**, remain in effect for all small wireless facilities collocated on the City's utility poles pursuant to applications submitted to the City before **June 1, 2018**, subject to applicable termination provisions contained therein. Agreements entered into after **June 1, 2018**, shall comply with this Article.

A wireless provider that has an existing agreement with the City on the effective date of the Act may accept the rates, fees and terms that the City makes available under this Article for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject to an application submitted **two (2) or more years** after the effective date of the Act by notifying the City that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the City's provides such notice and exercises its option under this paragraph.

(G) **Annual Recurring Rate.** A wireless provider shall pay to the City an annual recurring rate to collocate a small wireless facility on a City utility pole located in a right-of-way that equals (i) **Two Hundred Dollars (\$200.00)** per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the City utility pole.

If the City has not billed the wireless provider actual and direct costs, the fee shall be **Two Hundred Dollars (\$200.00)** payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

(H) **Abandonment.** A small wireless facility that is not operated for a continuous period of **twelve (12) months** shall be considered abandoned. The owner of the facility shall remove the small wireless facility within **ninety (90) days** after receipt of written notice from the City notifying the wireless provider of the abandonment.

The notice shall be sent by certified or registered mail, return receipt requested, by the City to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within **ninety (90) days** of such notice, the City may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

A wireless provider shall provide written notice to the City if it sells or transfers small wireless facilities within the jurisdiction of the City. Such notice shall include the name and contact information of the new wireless provider.

8-4-4 DISPUTE RESOLUTION. The Circuit Court of Macoupin County, Illinois shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the City shall allow the

collocating person to collocate on its poles at annual rates of no more than **Two Hundred Dollars (\$200.00)** per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

8-4-5 **INDEMNIFICATION.** A wireless provider shall indemnify and hold the City harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the City improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Article and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the City or its employees or agents. A wireless provider shall further waive any claims that they may have against the City with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

8-4-6 **INSURANCE.** The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- (A) property insurance for its property's replacement cost against all risks;
- (B) workers' compensation insurance, as required by law; or
- (C) commercial general liability insurance with respect to its activities on the

City improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of City improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the City as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the City in a commercial general liability policy prior to the collocation of any wireless facility.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the City. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the City.

8-4-7 **SEVERABILITY.** If any provision of this Article or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Article is severable.

(Ord. No. 1796; 08-20-18)

ARTICLE V – NEW WAVE COMMUNICATIONS

8-5-1 ANNUAL FEE. Telecommunications Management LLC, dba NewWave shall pay an annual service provider fee to the City in an amount equal to **five percent (5%)** of annual gross revenues derived from the provision of cable or video service to households located within the City. The **twelve (12) month** period for the computation of the service provider fee shall be a calendar year.

8-5-2 QUARTERLY PAYMENTS. The service provider fee payment shall be due quarterly and payable within **forty-five (45) days** after the close of the preceding calendar quarter. Each payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation in accordance with each section of **220 ILCS 5/21-801** and as detailed below. If mailed, the fee shall be considered paid on the date it is postmarked.

8-5-3 GROSS REVENUES DEFINED. For purposes of the calculation of the service provider fee, "gross revenues" shall mean consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by Telecommunications Management LLC, dba NewWave Communications for the operation of its cable system to provide cable or video service within the City's jurisdiction, 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;
- (F) late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments;
- (G) a pro rata portion of all revenue derived by Telecommunications Management LLC d/b/a NewWave Communications or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of Telecommunications Management LLC d/b/a NewWave Communications network to provide cable service or video service within the jurisdiction of the City. The allocation shall be based on the number of subscribers in relation to the relevant regional or national compensation arrangement.
- (H) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such "home shopping" or similar channel, subject to item (I) of this Section.
- (I) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the

holders revenue attributable to the other services, capabilities or applications shall be included in gross revenue unless Telecommunications Management LLC, d/b/a NewWave Communications can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

(J) The service provider fee.

8-5-4 FEE EXCLUSION. For purposes of the calculation of the service provider fee, "gross revenues" do not include any of the following:

(A) Revenues not actually received, even if billed, such as bad debt; subject to item (F) of **Section 8-5-3**.

(B) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by Telecommunications Management LLC, d/b/a NewWave Communications to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.

(C) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including without limitation, revenue received from telecommunications services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder or noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders;

(D) The sale of cable services or video services for resale in which the purchase is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City's jurisdiction and pay the fee as permitted with respect to this service.

(E) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal or any other governmental entity and collected by Telecommunications Management LLC d/b/a NewWave Communications and required to be remitted to the taxing entity including sales and use taxes.

(F) Security deposits collected from subscribers, or

(G) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

(H) The City incorporates by reference **220 ILCS 5/21-801(C)(3) et seq.** regarding revenue of affiliates including for public, education, and government access fees.

(Ord. No. 1793; 07-02-17)

(See Article II)

CHAPTER 9 - CEMETERY

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CHAPTER 9

CEMETERY

ARTICLE I – BOARD OF MANAGERS

9-1-1 **BOARD CREATED.** There is hereby created a Board of Managers of the Cemetery of the City, and the duties, term of office and members of said Board. **(65 ILCS 5/11-52.2-1)**

9-1-2 **MEMBERS; TERM OF OFFICE.** The Board shall consist of **five (5) persons**, one to be selected from each of the **five (5)** present wards of the City and the term of office of each of its members shall be **five (5) years**. The members of said Board shall be appointed by the Mayor with the advice and consent of the City Council and the members of said Board of Managers shall hold office for a term prescribed and until their successors are appointed, except the members of the first Board appointed hereunder shall draw lots as hereinafter prescribed so that the term of office of all of the members of said Board shall not expire at the same time. Said Board members shall hold office from appointment as follows:

One for **one (1) year**, one for **two (2) years**, one for **three (3) years**, one for **four (4) years** and one for **five (5) years** from the first Monday in May following their appointment and at their first regular meeting shall cast lots for their respective terms and annually thereafter, the Mayor, shall upon the first Monday in May of each year appoint as before, one member of such Board to take place of the retiring member, who shall hold office for **five (5) years** and until his successor is appointed as aforesaid.

9-1-3 **REMOVAL FROM OFFICE.** The Mayor may, with the consent of the Council remove any member of the Board of Managers for misconduct or nonperformance of duty or for misappropriation or wrongful use of funds or property and to require a just and proper accounting for the same. Vacancies in the Board of Managers occasioned by removals, resignations or otherwise shall be reported to the Council and be filled in like manner as original appointment. No Board member shall receive compensation as such.

9-1-4 **OFFICERS; BOND.** It shall be the duty of such Board of Managers, as soon as may be convenient after appointment, to meet and organize by selecting one of their number to be President and another of their number to be Clerk of such Board and also to elect a Treasurer of such Board who may or may not be a member of said Board and who before entering upon his duties as such Treasurer shall execute a bond to the people of the State of Illinois, for the use of said Board of Managers in a penal sum of not less than double the value of such money or funds coming into his hands as such Treasurer conditioned for the faithful performance of his duties and for the faithful accounting for all monies of funds which by virtue of his office comes into his hands, and to be substantially in the following form:

(Know all men by these presents, that we, _____
Principal, of the City of Carlinville, in the County of Macoupin and State of Illinois, and __

sureties, of the same place are held and firmly bonded unto the people of the State of Illinois for the use of the Board of Managers of the City Cemetery of the City of Carlinville, Illinois in the sum of _____ Dollars lawful money of the United States, for the payment of which well and truly to be made to the said Board of Managers or its successors in office, we bind ourselves, our heirs, executors, and administrators jointly and severally, firmly by these present.

Witness our hands and seals this ___ day of _____, A.D., 20___.

The condition of the above obligation is such that whereas the above bounded is such that whereas _____ has been elected Treasurer of the Board of Managers of the City of Carlinville, Illinois; now therefore, if the said _____ shall with honesty and good faith discharge his duties as such Treasurer and shall account for all monies and property and other things, which may come into his possession or under his control therein as such Treasurer and make report as required by an ordinance of the said City of Carlinville, relative thereto, referred to herein and the duties therein prescribed to be performed by the said Treasurer made a part hereof, then this obligation is to be void, otherwise to remain in full force and effect.

(Seal.)
(Seal.)
(Seal.)
(Acknowledgment)

and with such securities as shall be approved by the Council of said City and preserved in the same manner as is the bond of the Treasurer of said City.

9-1-5 DONATIONS, MAINTENANCE AND CARE. Any person or persons whosoever, is and are hereby authorized and empowered to give, donate, devise or bequeath any sum of money, not less than **Fifty Dollars (\$50.00)**, or any funds, securities or property of any kind, the value of which shall not be less than **Fifty Dollars (\$50.00)**, to said Board of Managers in perpetual trust, for the maintenance, care, repair, upkeep or ornamentation of said cemetery or any lot or lots or grave or graves in said Cemetery specified in the instrument making such gift, donation, devise or bequest.

9-1-6 MONIES; PERPETUAL TRUST. The Board of Managers is hereby authorized and empowered to receive and hold in perpetual trust any money, securities, funds and property so given, donated, devised or bequeathed to it in trust and by its President and Clerk execute to the proper person a declaration of trust in writing; substantially in the following form:

DECLARATION OF TRUST

The Board of Managers of the City Cemetery of the City of Carlinville, Illinois, in consideration of _____ received by it from _____ hereby acknowledges and declares that it is possessed of said property in perpetual trust and that annually the said Board of Managers declare that **four percent (4%)** on the above trust fund will be expended to maintain, care for, repairs, upkeep, or ornament the following described lot or lots or grave or graves in the Carlinville City Cemetery, to-wit:

The said Board, further declares, that it will through its declaration, keep said Trust Fund intact and perpetually invest in bonds or securities legal for trust purposes in the State of Illinois, and the income thereon to the amount of **four percent (4%)** applied as aforesaid, and in keeping with the letter and spirit of a certain ordinance of said City relative thereto.

Given under our hands and seal this day of _____ A.D., 20_____.

President

Clerk

The Board of Managers shall have the right to convert the property into money and shall invest the proceeds thereof and the money so given, donated, and bequested to it. The principal of such Trust Fund shall be kept intact and perpetually inverted in bonds or securities legal for trust purposes in the State of Illinois, and the income thereof to the amount of **four percent (4%)**, shall be perpetually applied for the purpose specified in the instrument making such gift, donation, devise or bequest and for no other purpose.

9-1-7 TRUST FUNDS; RECORDS. The Treasurer of the Board shall have the custody of all money and property received in trust by said Board of Managers and shall pay out the same only upon the written order of said Board, signed by the President and Clerk thereof, and he shall keep permanent books of record of all such Trust Funds and all receipts and disbursements thereof, and for what purpose received and disbursed, and shall annually make a report in writing to said Board of Managers, under oath, showing balances, receipts and disbursements, including a statement showing the amount and principal of Trust Funds on hand and how invested, which report, shall be audited by said Board and if found correct, shall be transmitted to the Council of said City at the same time that the Treasurer of said City is required by Law to make his annual report and to be approved and preserved in the same manner, if found to be correct.

9-1-8 **PERMANENT RECORD OF BOARD.** The Clerk of the Board of Managers, in a book provided for such purposes, shall keep a permanent record of the proceedings of said Board, signed by the President and attested by the Clerk, and shall also keep a permanent record of the several Trust Funds, from what sources received, the amount thereof and for what uses and purposes, respectively, and he shall annually, at the time of transmitting the Treasurer's report to the Council, stating therein substantially the same matter required to be reported by the Treasurer of said Board, which report if found correct shall be approved and preserved by the said Council.

9-1-9 **CARE; CHARGES; MANAGEMENT.** The Board of Managers shall have the care, charges, management and control of the Cemetery under the supervision of the City Council and shall in conjunction with the City Council make provision and suitably mark and designate every perpetual care lot, or grave in said Cemetery.

9-1-10 **TRUST FUND; INCOME.** Any such trust executed to the Cemetery by its name shall vest in the Board of Managers and take effect to all interests and purposes as if executed to such Board, and Trust Fund, gifts, devises and bequests, herein described, and the income arising therefrom shall be exempt from taxation and from the operation of all Laws of Mortmain and the Laws against perpetuities. **(Ord. No. 12-5-27)**

9-1-11 **DUTY OF SEXTON.** Any sexton appointed by the Board of Managers as hereinbefore provided, shall enforce the provisions of this Code in relation to the Cemetery under his charge, and all the rules and regulations established by the Board of Managers for the protection of the same, and shall prosecute all violators thereof before any court of competent jurisdiction; and shall have the power to arrest and may arrest, without warrant, all persons found violating any provisions of this Code or of the Laws of the State relating to Cemeteries. **(1900 Code; Sec. 16-312 as amended.)**

9-1-12 **PLOT FEE.** The cost of purchasing a plot in the City Cemetery shall be **Two Hundred Fifty Dollars (\$250.00)** payable in advance.

ARTICLE II - REGULATIONS

9-2-1 **OUTER BURIAL CONTAINERS.** No person shall in any manner direct, authorize or permit a body to be buried in the Carlinville City Cemetery unless the grave where the body is to be placed contains an outer burial container which is made of concrete, metal or high strength plastic. Wooden outer burial containers shall not be used in graves at the City Cemetery. **(Ord. 1055; 4-16-84)**

9-2-2 **TRESPASSING.** It shall be unlawful for any person to injure, deface, remove or injure any vault, tombstone, monument, gravestone, or curbing or any article placed by the owner or persons in control of any lot, or shall cut or break any tree or shrub or plant in the cemetery, or willfully disturb the contents of any vault or tomb or grave.

9-2-3 **RIDING ON GRASS.** No person shall ride any horse or drive upon any private lot in the cemetery.

9-2-4 **FENCES.** It shall be unlawful for any person or lot owner in the Cemetery to erect or construct any enclosure or fence on or around any lot in the Cemetery; provided that this shall not be so construed as to prevent any person from erecting any concrete or stone coping not over **eighteen (18) inches** in height.

9-2-5 **GARBAGE AND REFUSE.** It shall be unlawful to dispose or place any garbage or other refuse, such as papers, cans, boxes, or other non-food waste substances and materials in any area of the Cemetery at any time.

9-2-6 **BURNING IN CEMETERIES.** It shall be unlawful to burn any refuse, such as papers, boxes, waste building materials or any other waste substances and materials in the cemetery without first securing a permit from the City.

9-2-7 **FEES.** A fee in an amount equal to the Perpetual Care Fee, plus the regular cost of opening a grave in any plot in the Cemeteries for which the Perpetual Care Fee has not been paid shall be paid before such grave is opened.

9-2-8 **BURIALS.** No deceased body shall be buried in the cemetery unless a permit therefor has been issued by the City Clerk.

9-2-9 **RECORDS.** The City Clerk or a designated representative shall keep a record of all permits issued, with the date of burial, name of deceased and upon what lot buried and such other information as may be required. **(65 ILCS 5/11-52.1-1 et seq.)**

9-2-10 **APPLICATION OF CITY CODE.** All provisions of the Municipal Code now in force or hereafter enacted relating to and defining public offenses in the City, insofar as the same shall be applicable, shall be in full force and effect in the City Cemetery.

9-2-11 **UNLAWFUL ENTRY.** It shall be unlawful for any person or persons, other than duly authorized officers, officials or employees of the City to enter or be upon the cemetery grounds during the time after sunset and before sunrise of any day without first obtaining the permission of the Superintendent. It shall further be unlawful at all times for any person to enter or leave the grounds other than by the established and open entrances or gateways.

9-2-12 **LOITERING; EXCEPTIONS.** It shall be unlawful for any person to loiter upon lots or graves of the City Cemetery or for the parent or guardian of any child under the age of **sixteen (16)** to permit such child to be within the cemetery grounds unless accompanied by an adult person; provided nothing herein shall be construed to prohibit any person having lawful business in the cemetery in connection with the improvement thereof or persons visiting the graves of relatives or friends from being in the cemetery in accordance with the rules.

9-2-13 **SPEED OF VEHICLES.** It shall be unlawful for any person to drive any vehicle in the cemetery faster than **ten (10) miles** per hour.

9-2-14 **OPERATION OF VEHICLES AND PARKING.**

(A) No person shall drive or move any vehicle within the cemetery except over a roadway open for vehicular traffic or obstruct any path or driveway within the cemetery open to vehicular traffic. No person shall use the cemetery grounds or any driveway therein as a public thoroughfare or drive any vehicle through said grounds except for purposes of making deliveries in the cemetery or visiting any grave site.

(B) It shall be the duty of the Superintendent and/or the police to direct all vehicular traffic and the Superintendent is authorized to direct the parking or standing of all vehicles in the cemetery. No person shall disobey or disregard the directions of the Superintendent relating to the movement or standing of all vehicles within the cemetery.

9-2-15 **GRAVE DECORATIONS (FLOWERS).** The placing of cut flowers or artificial flowers over individual graves shall be permitted; however, the City shall not be responsible for the care of such flowers or the containers in which they are placed. Furthermore, the City shall remove, without notice, all flowers, real or artificial which remain over **fifteen (15) days.**

9-2-16 **RUBBISH; DEBRIS.** It shall be unlawful for any person to dispose of any rubbish, trash, waste materials, litter, or debris of any kind in the Cemetery.

9-2-17 **PROPERTY DAMAGE.** No person shall remove, molest, injure, mar, deface, throw down or destroy any headstone, monument, survey marker, corner marker, tomb, vault or mausoleum or decoration on any cemetery lot in the cemetery or open, disturb or molest any grave or place of burial therein. This shall not prohibit acts by cemetery officers and employees or public officials in carrying out their duties.

9-2-18 **TREES, SHRUBS, AND FLOWERS.** It shall be unlawful for any unauthorized person to plant any trees, shrub or other plant in the cemetery except those permitted by the general landscape plan approved by the governing body of the City. It shall be unlawful for any unauthorized person to cut down, injure, break or destroy any tree, shrub or other plant growing in the cemetery or to pick, pluck or cut any flower or decorative plant, except as authorized by the cemetery rules.

(65 ILCS 5/11-52.1 et seq.)

(See Section 1-1-20 for penalty)

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CHAPTER 11

EMPLOYEE PERSONNEL CODE

ARTICLE I - PURPOSE

11-1-1 PURPOSE. The purpose of the Employee Code is to implement and maintain a uniform system of employment within all departments of the City and shall hereinafter be referred to as the "Code". The Code is designed to provide employees and management with information pertaining to the employment policies and procedures applicable to all City employees.

All policies and procedures contained in this Code originally shall go into effect **September 1, 1994**, and revisions to the Employee Code will go into effect immediately upon passage by the City Council and approval by the Mayor.

All employees will be required to adhere to the policies and procedures as they are outlined in this Code.

Upon adoption by the City Council, this Code shall be the nonexclusive policy of all departments of the City concerning terms and/or conditions of employment.

In order to implement and carry out the express provisions and the intent of this Code, all Elected Officials/Department Heads may pronounce policies consistent with this Code. A copy of any such policy shall be distributed to the Mayor and the City Council.

Nothing in this Code shall in any way affect the City's and Superintendent's right to develop and disseminate information concerning the operations of any department and employee's job functions, duties and job position description.

ARTICLE II - GENERALLY

11-2-1 DEFINITIONS.

(A) **Employer.** The term employer, as used in this Code, means the City of Carlinville.

(B) **Employee.** The term employee, as used in this Code, means a person working as a volunteer or for remuneration for services rendered to the City. For purposes of this Code, an Elected Official is not an employee whose personal rights are affected by the Code.

(C) **Department.** The term department, as used in this Personnel Code, shall mean the governmental unit for whom the employee is directly working for and rendering services.

(D) **Elected Official/Department Head.** The term Elected Official/Department Head, as mentioned in this Code, means the one individual ultimately responsible for all operations of the department. The term Elected Official/Department Head includes City elected public office holders such as Mayor, City Council, and City Clerk. The term Elected Official and/or Department Head applies to individuals who are responsible for the operations of the department and to City elected office holders unless specifically indicated otherwise in this Code. The Elected Official/Department Head may designate a representative as being responsible for carrying out the immediate functions as enumerated in this Code, and that representative, upon designation, shall be considered the Elected Official and/or Department Head.

(E) **Immediate Supervisor.** The term immediate supervisor, as used in this Code, shall mean the individual to whom the employee shall immediately report and be responsible for his work. An immediate supervisor may be the Elected Official/Department Head.

(F) **Immediate Family.** The term "immediate family" includes spouse, child, parent, brother, sister, mother, father, grandparent, grandchild, and mother-in-law or father-in-law.

11-2-2 PRE-EMPLOYMENT VERIFICATION POLICY. This policy is intended to serve as a guide relating to the hiring of permanent full and part-time employees.

11-2-3 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.

11-2-4 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.

11-2-5 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 III – HIRING POLICY

11-3-1 **EQUAL EMPLOYMENT.** No person shall be discriminated against in any aspect of employment on the basis of race, color, religion, sex, national origin, age, handicap or disability, ancestry, marital status, political affiliation, or any other prohibited form of discrimination under Federal or State law or government contract or grant regulations.

All employees shall adhere to this nondiscriminatory policy.

Any and all affirmative action plans in effect shall also apply with regard to equal opportunity employment.

Sexual harassment in the workplace is considered by the City to be a form of sex discrimination, and no employee shall engage in any form of sexual harassment in the workplace.

Any employee, person or individual who feels in any way wronged, harassed, interfered with, or discriminated against should feel free to contact the City Council. This City Council will investigate the matter. No employee shall be retaliated against by co-employees or supervisors for making contact with the City Council or otherwise complaining of any form of discrimination.

11-3-2 **HIRING POLICY; RESIDENCY.**

(A) **Requirements.** Employment is based on each applicant's qualifications as compared with the requirements of the available position. Consideration is given to ability, experience, education, training and character.

No consideration shall be given to the applicant's political party affiliation or support in regard to any decisions on hiring, promotion, transfer, or recall.

- (1) **City Employees.** All City employees, both full-time and part-time, shall reside within five (5) miles of the City limits. **(Ord. No. 1360; 04-07-97)**
- (2) **Part-Time Dispatchers.** Part-time dispatchers working in the Police Department shall not be subject to the residency requirements established herein. **(Ord. No. 1492SA; 01-20-04)**

(B) **Application Forms.** Applications for positions with the department must be filed on forms furnished by the Personnel Department. All successful applicants shall produce an original social security card. The Elected Official/Department Head 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 Elected Official/Department Head 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 will 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.

(C) **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 Elected Official/Department Head.

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 Department Head based upon employee's performance and conduct:

- (1) The employee may assume the new position having successfully completed the probationary period.
- (2) The probationary period may be extended.
- (3) The employee may be demoted to a position commensurate with the employee's ability if the lower position is available.

- (4) The employee may be terminated due to substandard performance and/or conduct as determined by the Mayor with the advice and consent of the City Council.

(D) **Probationary Period.** A minimum of **twelve (12) months** of employment will be designated as a probationary period for all employees. To assure that new employees are aware of the expectations and functions of their job and to answer any questions the probationary employee may have, a formal evaluation will be made at the end of the probationary period by the employee's supervisor. The probationary period is tolled during periods of approved leave of absences.

The probationary period also applies to employees who are rehired after previously terminating their employment with the City. All employees rehired by the City within **three (3) years** of their termination date may be eligible for benefits they earned during previous employment with the City. Eligibility for benefits lies within the discretion of the Mayor and City Council.

Probationary employees who are dismissed do not have redress through the grievance procedure. In the event that employment is terminated during the probationary period, any accrued benefits, leave time, etc., with the exception of vacation, will be lost.

ARTICLE IV – WAGES AND CLASSIFICATIONS

11-4-1

WAGES AND CLASSIFICATIONS.

(A) **Employment Classifications.** Employees are classified according to the following guidelines:

- (1) **Salaried Exempt.** This classification includes all Elected Officials and Department Heads and supervisory and administrative personnel. Salaried Exempt employees are exempt from overtime. Salaried Exempt employees are paid at a fixed salary rate with the expectation that the work load will dictate the number of hours worked.
- (2) **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.
- (3) **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.
- (4) **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.
- (5) **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.
- (6) **Volunteers.** Those individuals who accept on an unpaid basis various work assignments for any department. These individuals receive no wages nor benefits.

(B) **Paychecks.** Employees shall receive their paycheck on a biweekly basis. Employees shall work at least **two (2) weeks** before being paid, creating a **two (2) week** lag, which will be paid upon termination of employment. The paycheck actually issued will be for the preceding pay period.

(C) **Compensation.** The basic rate of pay shall be set forth in the "Appropriation Ordinance" adopted by the City Council.

(D) **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.

(E) **Salary Increases.** Employees are eligible for a salary increase after the completion of the probationary period.

ARTICLE V – HOURS OF WORK

11-5-1 WORK WEEK. The Mayor or Superintendent will determine the work week. The Superintendent must allow for continuous operation of the department or office.

No work shall be performed at home, without prior approval of the Mayor or Superintendent.

Prior approval of immediate supervisors is necessary for any employee to work early or stay late to do work related activity.

All City Department personnel are on 24-hour call to report to work. No person employed by the Street Department shall work for more than **sixteen (16) hours** in a 24-hour period.

11-5-2 LUNCH. The following shall apply for lunches:

Each Superintendent shall establish the lunch schedule for their own department.

Each Superintendent shall stagger the hours of the department staff during the lunch period to allow for continuous operation of the department or office.

Travel time to and from any eating place is included in the lunch period. The lunch break cannot be used for compensatory time or as a substitute for tardiness. Lunch periods may not be taken at the end of the day or in conjunction with a rest period unless the employee has obtained written approval from his or her immediate supervisor.

11-5-3 TIME AND ATTENDANCE. The 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.

11-5-4 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 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 Elected Official/Department Head 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 Mayor. Samples of this exception include the holiday, the Superintendent approving for good cause hospitalization the day before or the day after the holiday, and a 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 Mayor shall exercise judgment as to whether the sickness or hospitalization is for "good cause".

ARTICLE VI - LEAVES

11-6-1 **LEAVE.** For all types of leaves, the City may require employees to use vacation, sick leave, comp time or any other type of accumulated or accrued benefits before the employee is placed on leave without pay status.

11-6-2 **HOLIDAYS AND VACATIONS.** The City Clerk, the Superintendent, the Zoning Administrator, all full-time Street Department employees, the Police Chief, the police clerk, all full-time police dispatchers, all full-time Water and Sewer Department employees, and the Assistant City Clerk shall be entitled to the following paid holidays each year: New Year's Day; Memorial Day; Fourth of July; Labor Day; Veteran's Day; Thanksgiving Day; the day after Thanksgiving; Christmas Day; Good Friday; and each such employee shall have a paid holiday on such employee's birthday. **(Ord. No. 1707; 07-15-13)**

All of the foregoing full-time employees shall be entitled to vacation leave with pay as follows: **ten (10) days** after the anniversary date of **one (1) year** of normal, continuous and uninterrupted service to the City by the employee; **fifteen (15) days** after the anniversary date of **ten (10) years** of normal, continuous and uninterrupted service to the City by the employee; and **seventeen (17) days** after the anniversary day of **fifteen (15) years** of normal, continuous and uninterrupted service to the City by the employee, provided that said vacation leave after the **first (1st) year** and after the **tenth (10th) year** of said service by the employee shall be converted to, prorated and kept track of on a fiscal year basis. Vacation leave shall not be cumulative and the City employee shall take earned vacation by the end of each fiscal year, except as is otherwise necessary during the **second (2nd)** and **eleventh (11th) years** of service to convert said vacation leave to a fiscal year basis. The corporate authorities of the City, by resolution, may allow earned vacation time to accumulate when it is in the best interest of the City.

Part-time employees are excluded from the provisions of this subsection. Computation of normal, continuous and uninterrupted service, for purpose of this subsection, shall not include service rendered prior to any severance of employment from this City. Employees as used in this subsection shall include the Superintendent of Public Works and the department supervisors as defined in this Code. **(Ord. No. 1293; 05-16-94)**

11-6-3 **SICK LEAVE.**

(A) **Days Allowed.** The Superintendent of Public Works, the Zoning Administrator, all full-time Street Department employees; the Police Chief, the police clerk, all full-time police dispatchers, all full-time Water and Sewer Department employees, and the Assistant City Clerk shall be allowed **twelve (12) days** of sick leave in each year without any reduction in their respective salaries. After being off of work and taking **three (3)** continuous sick days, the employee shall not be able to return to work without a doctor's excuse. **(Ord. No. 1707; 07-15-13)**

In the event any of the foregoing officers or employees do not use the allotted **twelve (12) days** of sick leave in a particular year, the number of sick days that are not used may be accumulated and used in the following year. However, sick leave of more than **seventy-five (75) days** cannot be accumulated by any one of the foregoing individuals. In any **one (1) year**, if one is able to take more than **twelve (12) days** of sick leave with pay on account of prior years' accumulation of sick leave, and does take more than **twelve (12) days** of sick leave that particular year, in order to be compensated for the sick days that are used above and beyond the allotted **twelve (12) days** of sick leave for **one (1) year**, the said individual must obtain a verification of his sickness and inability to work in writing from a qualified and licensed medical practitioner.

Upon termination of employment of any City employee entitled to sick leave herein, it shall be the said employee's option to be paid for **one-half (1/2)** of his or her accumulated sick leave or to apply all of said accumulated sick leave toward retirement, provided that after **ten (10) years** of

uninterrupted service as a City employee, the said employee shall have the option to be paid for all of his or her accumulated sick leave.

For any employee who reaches the sick leave cap of **seventy-five (75) days**, additional sick leave days shall be credited to a catastrophic illness bank. These days may only be used in the event of a catastrophic illness and the depletion of all accumulated sick leave. Upon the termination of employment by any employee, said employee shall not be entitled to be paid for any of his accumulated sick leave in said catastrophic illness bank, nor shall he be entitled to apply any of said sick leave in said catastrophic illness bank toward retirement.

Earned sick leave shall be posted monthly.

(B) **Restrictions.** Sick leave shall not be used for purposes of an extended vacation, weekend or holiday. Sick leave cannot be used as a substitute for vacation leave. Employees will be granted sick leave only after completing a minimum of **twenty-five (25) work days** of actual employment. Sick leave must be accrued before it may be used. Otherwise, time off shall be charged to the employee's accrued vacation leave time, or at the option of the City Council, shall be taken as leave without pay. Sick days are accrued during probation. Sick time will be deducted for no less than **one (1) hour**. No sick leave in excess of **three (3)** consecutive days shall be authorized unless approved by the Elected Official/Department Head.

The City Council 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 the Superintendent or Mayor as to the cause of illness and indicate whether a continuing impairment might have occurred.

In order to continue active work assignments or to resume work after an illness or injury or disability, employees must 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 **four (4)** 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.

(C) **Illness or Injury at Work.** Any employee who is ill or injured on the job shall immediately notify the supervisor 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.

(D) **Maternity.** 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 11-1-7(C), Family and Medical Leave Act.**

11-6-4 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 (A) Special Leave, and for (G) 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 Elected Official/Department Head. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs. Length of service or benefits shall not accrue or accumulate during a special leave. A person either hired or promoted to fill the position vacated by the person on leave shall be considered in that position temporarily and shall relinquish it upon the employee's return.

If a special leave is approved by the City Council, coverage under Illinois Municipal Retirement Fund may be maintained pursuant to IMRF rules and regulations.

(B) **Military.** Any full-time, salaried exempt, or part-time employee who is a member of a Reserve component of the Armed Service, the Illinois National Guard, or the Illinois Naval militia, shall be allowed annual leave with pay for **one (1)** full pay period and such additions or extensions thereof without pay as may be necessary for the employees to fulfill the military reserve obligation. Such leaves will be granted without loss of length of service or other accrued benefits.

In case of an emergency call up (or order to state active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of length of service or other accrued benefits.

Military earnings during the military reserve obligation or for the emergency call must be submitted and assigned to the City, and the City shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earning for the period, the City Council shall return the difference to the employee.

To be eligible for military reserve leave or emergency call up pay, the employee must provide the City with a certificate from the commanding officer of the employee's unit that the leave taken was for either such purpose. Full-time employees entering into military service as a result of voluntary enlistment, induction into the service by draft, or conscription will be afforded all of the privileges provided by the **Illinois Compiled Statutes, Chapter 330, Section 60/1 et seq.**

(C) **Jury Duty.** An employee shall be excused from work for days in which the employee serves on Jury Duty. The employee shall receive his regular pay for jury service. The employee must present proof of jury service and the amount of pay received is to be deposited in the City treasury. The employee shall also turn over to the City any expense allowances paid by the court, if the jury duty is located at the County Courthouse. If an employee is given an early release from jury duty, the employee shall then report to his or her regular work assignment.

(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 County. The employee shall turn over to the County any witness fee when the employee's witness activity is work related.

(E) **City Disability Leave.** To be eligible for City Disability Leave, the employee must submit to the Personnel Department a medical opinion that the employee cannot work in his normal job position, and a medical opinion that the employee may possibly be able to return to work within the next **six (6) months**. Employees are not eligible for disability benefits until they have been employed at least **one (1) year**. Employees may be required to use their accrued sick or vacation time to continue regular wages.

Employees must submit a letter requesting disability leave to their immediate supervisor within a reasonable amount of time before disability leave is taken. Upon return to work, employees must submit a release statement from their physician to the Elected Official/Department Head. If the Elected Official/Department Head has reason to believe that the employee is unable to perform the normal duties or the employee is able to perform duties and is still absent, they may seek and rely upon the decision of an impartial physician. The Elected Official/Department Head will select a physician who is not a City employee to act as an impartial physician.

(F) **Educational Leave.** The Elected Official/Department Head 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 Elected Official/Department Head 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 County service. Employee shall receive his regular pay during an education leave of absence for training courses when so authorized by the Elected Official/Department Head.

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 Elected Official/Department Head. 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) days** 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.

(H) **Expiration of Leave.** When an employee returns from a leave of **six (6) months** or less, the Superintendent or Mayor 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 VII – MISCELLANEOUS BENEFITS

11-7-1 **ILLINOIS MUNICIPAL RETIREMENT FUND.** The City will participate in contributions for all eligible employees to the Illinois Municipal Retirement Fund. The City shall follow all guidelines of IMRF in order to protect the benefits of the employees.

11-7-2 **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 salaried 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 must be notified of a divorce or legal separation of the covered employee, and further must be notified when a child is no longer eligible as a covered dependent of the employee.

(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 Types of Insurance.** All classifications of employees will be covered by the provisions of Social Security legislation, and salary deductions will be made in accordance with the law.

Employees are covered by the Workers' Compensation Act, **Illinois Compiled Statutes, Chapter 820, Section 305/1 et seq.** Any work-related injury must be reported to the Mayor.

All employees are covered by unemployment insurance. All costs shall be paid by the City.

11-7-3 **TRAINING.** For meetings and seminars, employees may be granted leave with pay to attend meetings, seminars and conventions of professional and technical organizations, when such attendance would benefit the employee's ability to perform the job, and is approved in advance by the Mayor.

For any training programs conducted after regular working hours, such training shall be voluntary unless arrangements for such training includes the granting of overtime.

All employees shall be reimbursed for mileage expenses incurred while attending assigned schools outside of Macoupin 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 Mayor 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.

11-7-4 **DEATH BENEFITS.** Each employee shall fill out a designation of beneficiary form. Upon the death of an employee, the designated beneficiary shall be entitled to receive from the appropriation for personal services theretofore available for payment of the employee's compensation, such sums for any accrued vacation period to which the employee was entitled to at the time of death. Such payment shall be computed by multiplying the employee's daily rate of pay by the number of days of accrued vacation at the time of death.

Upon the death of an employee, the estate shall receive any unpaid compensation, accrued overtime, or other benefits the employee would have been allowed had the employee survived.

Family members of deceased employees should contact the City Clerk's Office for explanation of any further benefits the family members or the estate of the deceased employee may be entitled to.

11-7-5 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 Department vehicles without the knowledge of their supervisor or Elected Official/Department Head. 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 initiated 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 immediate supervisor or Mayor.

If the most economical means of travel available is by some type of transportation other than an automobile, the mode selected must be approved by the employee's supervisor and Mayor before departure. Travel by either airplane or train will be by coach class.

11-7-6 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 for the traveler 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 of Carlinville 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.

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 must submit an expense log. This log must be signed by the employee submitting the expense claim and approved by the appropriate supervisor and division manager. 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 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.

(See Chapter 1 – Article II)

ARTICLE VIII – REGULATIONS AND RESTRICTIONS

11-8-1 **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 Supervisor immediately with all pertinent information including whether personal injury is involved and whether any traffic citations were issued. All Supervisors shall within **twenty-four (24) hours** notify the City Attorney's Office if any traffic citations were issued to a City employee and shall provide the City Attorney with a copy of the citations. An employee is obligated to cooperate with the City and any of the City's legal representatives regarding the accident and any citations that may have been issued.

11-8-2 **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 City 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 City. Employees may be evaluated on their dress and appearance. The Mayor is the only individual of each department who may make exceptions to the dress code.

11-8-3 **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 City 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 City 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.

11-8-4 **TELEPHONE USAGE.** Good telephone habits are an indication that the department is interested in serving the public. At all times, answer promptly and courteously. Identify yourself by name and section, be friendly and helpful. Write time and date of any message from the caller, transfer calls tactfully, give accurate information, do not keep the caller waiting and hang up carefully.

Employees must keep incoming and outgoing personal calls to a minimum.

11-8-5 **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.

11-8-6 **SMOKING.** Smoking by City employees will only be allowed in designated areas, including smokeless tobacco.

11-8-7 PHOTO I.D.'S. The City Council may issue a photo I.D. card for employees.

All employees who are issued a shield badge and/or photo I.D. are required to be in possession of the badge and/or photo I.D. on and off duty. Employees will not use their shield or identification card for personal business or personal gain. If a shield or identification card is lost or stolen, it must be reported in writing to the director without delay.

11-8-8 SPEECH AND DISSEMINATION OF INFORMATION. Employees are encouraged to appear before civic organizations, fraternal organizations or any other group in an official capacity. Employees must notify the Mayor 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 Mayor has the sole right to adopt and interpret the policies of the organization. If in doubt, it is always preferable to consult the Mayor before making any statements that might possibly be misinterpreted or misconstrued by the general public or press. **(See Mandated Policies – Chapter 22)**

The Mayor will make all news releases concerning the City.

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. **(See Chapter 22 – Mandated Policies)**

11-8-9 RELATIONS WITH CREDITORS. The City will charge employees any authorized costs when making wage deduction pursuant to court order or State or Federal statutes.

11-8-10 POSSESSION OF FIREARMS. Unless authorized by the Chief of Police, and unless authorized by the Mayor, no employee of any department has legal authority to carry weapons while in the performance of their official duties.

11-8-11 ETHICS. Employees will not recommend or promote the sale of any specific brand name product or equipment.

Many employees in the course of their work have access to medical information about patients, clients, employees, or other individuals. This may be medical, legal or job related information. Such information is not to be repeated or discussed outside the department or with other personnel unless such information is a necessary part of the employee's assigned duty.

Employee's shall inform the 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 department.

11-8-12 OTHER EMPLOYMENT. Employees are prohibited from having conflicting employment while having a full-time position. An employee may not be paid by another employer for the same **forty (40) hour** period employee is being paid by the department. If a full-time employee performs outside services or employment, such services or employment must be reported to the Mayor for prior approval, and advance notification must be given by the employee to the Personnel Department.

Fees earned by an employee for serving as an instructor for a class during other than normal working hours which is not sponsored by the department in another community agency, will be dealt with as follows:

- (1) No overtime will be earned and the fee retained, or;
- (2) Overtime will be earned and the fee surrendered to the City Clerk and recorded as miscellaneous income.

Employees who are injured while engaging in other employment must notify the Mayor and the City Clerk.

11-8-13 PHYSICAL EXAMINATIONS. Each applicant for employment may be required to successfully complete a post-offer physical examination by a doctor of the employer's choice, including a drug screen upon the request of the City. At any time, employees may be required to submit to a physical examination. As a condition of their employment, the employees of the department must authorize the release of medical testing information including drug screens to the City for departmental use only.

Each employee authorized to carry and use a gun while at work for the City, and all employees engaging in heavy manual labor as their principal form of job activity for the City shall be required to submit to an annual physical exam and/or drug screens by a doctor of the employer's choice.

Drug screens can be conducted on a random basis for any security personnel employed by the City, except those under police personnel contract, for any employee authorized to carry and use a gun while performing work related activities for the City and for any employee that is required to hold other than a Class A driver's license for work related purposes. For all other employees, drug screens shall be conducted upon probable cause.

The term "drug screens", as used throughout and disclose to the Elected Official/Department Head, any drug or alcohol problem that the employee may currently have.

11-8-14 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.

11-8-15 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.

11-8-16 DRUG FREE WORKPLACE. All employees, as a condition of employment, will comply with the City's Drug Free Workplace Policy, attached to this Code as Appendix "A".

ARTICLE IX – RIGHTS OF EMPLOYEES

11-9-1 **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 City Council or designated representative. A copy of said request shall be placed in the employee's personnel file. Nothing should be placed in an employee's personnel file nor shall anything be removed from the file without the consent of the Mayor or 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.

11-9-2 **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 Mayor.

11-9-3 **SAFETY.** The Superintendent shall implement any safety procedures adopted by the City, and employees shall comply with any of the safety procedures.

All department employees are directed to report any hazardous conditions to their supervisor immediately.

Due to the open-office design of many department buildings, it is impossible to provide security for personal belongings left unattended. Staff members are advised to keep their wallets, purses, etc. in their possession at all times. The department cannot be responsible for losses due to theft.

11-9-4 **ALCOHOL AND DRUG PROBLEMS.** The demands of the modern world are being felt by everyone. Our daily lives are more complicated and more hectic than ever before. The majority of families have two breadwinners. Children often have jobs of their own. In addition, everyone is involved in outside activities of all types. The Modern world can be a two-edged sword: rewarding and enriching on one side and extremely sharp and stressful on the other.

Unfortunately, occasionally the stress of our world sometimes leads to abuse of alcohol and/or drugs. The City wants to assure its employees that, if there comes a time when you are experiencing or worried about an alcohol and/or drug problem, every reasonable effort will be made to help you while working for a permanent solution to the problem.

ARTICLE X – RIGHTS OF EMPLOYER

11-10-1 **CITY'S RIGHTS.** The employee recognizes that the City possesses the exclusive right to operate and direct the employees of the City in all aspects, including, but not limited to, all rights and authority granted by law.

The employee further recognizes that this Code is not a binding contract between the City and the employee. Nothing contained in this Code shall be construed as creating an employment agreement between the City and its employees from time to time.

11-10-2 **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 prior notice, approval or consent of the employees of the City.

11-10-3 **MANAGEMENT'S RESPONSIBILITY.** The employer has the ultimate responsibility for proper management including but not limited to responsibilities and the right for the following:

(A) To maintain executive management and administrative control of the department and its property, facilities and staff.

(B) To hire all employees and to determine their qualifications and the conditions for their continued employment or their dismissal or demotion.

(C) To direct, supervise, promote, suspend, discipline, terminate, assign and schedule employees.

(D) To relieve employees from duties because of a lack of work or funds, or under conditions where continued work would be inefficient or nonproductive or under conditions as may be deemed necessary or advisable by the department.

(E) To determine services to be rendered, operations to be performed, utilization of technology and budgetary matters.

(F) To determine the methods, processes, means, job classifications and personnel by which the operations of the department are to be conducted.

It is recognized that the employer normally exercises most of the powers, rights, authorities, duties and responsibilities through and with the cooperation of the administrative staff.

11-10-4 **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.

11-10-5 **EXEMPTIONS.** All employees that are governed by a collective bargaining agreement between the employer and a union are exempt from this Code.

All employees covered through Carlinville's Police Union are exempt from this Code as to hiring, promotion, discipline, or dismissal, but are otherwise covered by this Code.

ARTICLE XI - DISCIPLINE

11-11-1 **PROTOCOL.** The formal disciplinary process is a five step procedure, but dismissal may occur at any step in the process. The Superintendent or Mayor may use the Discipline Form attached as Appendix "C" for documentation purposes.

Under normal circumstances, these steps are outlined in the following sections.

11-11-2 **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.

11-11-3 **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 Mayor and employee's personnel file.

11-11-4 **PROBATION.** Employee may be placed on probation by 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 supervisor, and approval of the Mayor.

11-11-5 **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**.

11-11-6 **SUSPENSION.** Suspension of an employee would be at the discretion of the City Council, the suspension will result in a loss of salary for the period of the suspension. Upon return to work the suspended employee will be placed on probationary status for a period not to exceed **six (6) months**. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of a probationary period, a recommendation from the employee's immediate supervisor, and the approval of an Elected Official/Department Head. The period of suspension may be up to but not exceeding **thirty (30) days** off without pay in one calendar year. The suspension may include demotion, and is within the discretion of the City Council.

11-11-7 **DISMISSAL.** Dismissal should be used as a disciplinary action of last resort at the discretion of the City Council. All employees are subject to discharge by the City Council during any of the disciplinary steps.

11-11-8 **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 Mayor 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 the Mayor 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 and 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 an Elected Official/Department Head.
- (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.

11-11-9 **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 City.

The City also recognizes that false accusations can have serious effects 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 XII – GRIEVANCE PROCEDURE

11-12-1 PURPOSE. The purpose of a grievance procedure is to establish and maintain harmonious and cooperative working relationships between the City and its employees, to assure equitable treatment of employees, and to provide expeditious means of resolving employee dissatisfaction over circumstances or conditions of employment.

Strict adherence to the grievance procedures and time limits is mandatory, except that the time limits may be extended for good cause.

A grievance is defined as a dispute, disagreement, complaint, or any matter concerning any terms or conditions of employment, or concerning the application of any departmental policy, or concerning any employee relationship, or work related issue.

As used in this Section, the term days shall mean working days of the employee filing the grievance.

At any step, if a written response is not provided to the grieving employee within the **ten (10) day** time frame, the grievance will be considered denied at that step, and the employee may proceed to the next step.

If any Department Head 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 by the Mayor shall not be interpreted to constitute discipline and/or discharge of an ongoing employment relationship with the City.

Steps:

(1) A grieving employee shall within **five (5) days** after he learns of the circumstances or conditions which prompted the grievance, submit the grievance to the employee's immediate supervisor, in writing, informing such immediate supervisor of the grievance and the particulars concerning the same. The immediate supervisor shall provide a written response to the grieving employee within **ten (10) days** after receiving the grievance.

(2) If the grievance is not resolved to the employee's satisfaction, the employee may submit the grievance to the Mayor by summarizing the grievance in writing. The grievance must be submitted to the Mayor within **five (5) days** of the decision of the immediate supervisor.

For all other employees, the grievance shall be before the Mayor.

11-12-2 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.

11-12-3 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.

ARTICLE XIII – COMPUTER USAGE POLICY

11-13-1 **COMPUTER USAGE PROCEDURE.** Routinely all personnel will have access to a computer. The following procedures must be adhered to:

(A) All employees will only use the "Log-in ID", "User ID" and "Passwords" assigned to them, i.e. use of a supervisor "User ID" and "Passwords" by a line officer is prohibited unless authorized by the Administration. Use is a privilege, not a right, which may be suspended or terminated by Mayor when, in his/her judgment, this policy has been violated by the user.

No employee is authorized to share their "password" with anyone except the Supervisor assigned to overlook all passwords in the department.

(B) It is not permissible to use City computers and equipment in any inappropriate manner, such as to disgrace the department or a fellow employee. It is forbidden to use profanity or vulgar language on any department computer equipment.

(C) Only floppy disks which are requisitioned from the storerooms and the data processing department are authorized to be used in department computers. No outside floppy disks will be authorized to be used except with permission from Administration.

(D) No employee shall be allowed to do personal work at his or her City computer. This is with or without the use of any floppy disk.

(E) No employee shall be allowed to copy any City or department document to a floppy disk and use it outside the office without permission from Administration.

(F) No employee shall be allowed to have any unauthorized programs, utilities, games or files on their City PC.

(G) Any variance from the above procedures shall have prior Administration permission.

Information and data maintained in the electronic media on City computer system are protected by the same laws and policies, and are subject to the same limitations, as information and communications in other media. Said information and data are the property of the City.

Before storing or sending confidential or personal information, users should understand that most materials on City system are, by definition, public records. As such, they are subject to laws and policies that may compel the City to disclose them. The privacy of the materials kept in electronic data storage and electronic mail is neither a right nor is it guaranteed.

ARTICLE XIV – ELECTRONIC COMMUNICATIONS

11-14-1 POLICY; INTRODUCTION/PURPOSE. This policy is intended to serve as a guide on the proper use of the municipal electronic communication systems. This policy covers the use of all forms of electronic communications, including but not limited to e-mail, voice mail, fax machines, external bulletin boards, Intranet and the Internet, and applies to all users. Users are expected to read, understand and follow the provisions of this policy and will be held responsible for knowing its contents. Use of the electronic communication system constitutes acceptance of this policy and its requirements.

The City provides electronic mail (e-mail) and/or Internet access to Elected Officials and Staff who need it to perform the functions of their position. The purpose of this document is to communicate to all personnel their responsibility for acceptable use of the Internet and e-mail (whether sent over the Internet or over the City's own network). Policies and procedures are also outlined for the disclosure and monitoring of the contents of e-mail messages stored in the system when required.

The City's objectives for Employees to use e-mail and/or the Internet include:

- (A) exchanging information more efficiently than by telephone or written memorandum;
- (B) gathering information and performing research for departments; and
- (C) reducing the handling of paper copy.

11-14-2 POLICY DEFINITIONS. As used in this Policy, the terms listed below shall be defined as follows:

(A) **Electronic Mail (E-Mail).** Electronic mail may include non-interactive communication of text, data, image, or voice messages between a sender and designated recipient(s) by systems utilizing telecommunications links. It may also include correspondence transmitted and stored electronically using software facilities called "mail", "facsimile", "messaging" systems or voice messages transmitted and stored for later retrieval from a computer system.

(B) **Encryption Software.** Proprietary software that changes information from its native state to an unrecognizable coded state that can only be returned to its native state with special software.

(C) **Internet.** A worldwide network of networks, connecting informational networks communicating through a common communications language or "Protocol".

(D) **Intranet.** An in-house web site that serves the users of the City. Although Intranet pages may link to the Internet, an Intranet is not a site accessed by the general public.

(E) **World Wide Web.** An Internet client-server distributed information and retrieval system based upon hypertext transfer protocol (http) that transfers hypertext documents that can contain text, graphics, audio, video, and other multimedia file types across a varied array of computer systems.

(F) **Users.** Elected Officials, Department Heads, Employees, Volunteers, Contractors and Consultants.

(G) **Firewall.** An electronic device used to protect private networks from unauthorized access from users on the Internet.

11-14-3 OWNERSHIP. The electronic communication system is the property of the City. All computer equipment, computer hardware and computer software provided by the City are the property of the City. All communications and information transmitted by, received from, or stored in these systems are the property of the City.

11-14-4 USE OF ELECTRONIC COMMUNICATIONS. The City's electronic communications systems, including e-mail and the Internet, are intended for City business use only. Personal uses of the Internet and e-mail systems are prohibited. The City reserves the right to use

filtering software to block access to Internet sites that are considered inappropriate or non-productive. The filtered sites shall be reviewed and approved by the Mayor.

Before using these systems, all users shall understand that any information that is created, sent, received, accessed or stored in these systems shall be the property of the City and shall not be private. If a User is permitted to use electronic communication systems, such use shall not violate any section of this policy or interfere with user's work performance.

Users shall use the same care and discretion when writing e-mail and other electronic communications as they would with any formal written communication. Any messages or information sent by users to other individuals via electronic communication systems, such as the Internet or e-mail, are statements identifiable and attributable to the City. Consequently, all electronic communications sent by users shall be professional and comply with this policy.

11-14-5 PROHIBITED COMMUNICATIONS. Under no circumstances may any user operate the City's electronic communications systems for creating, possessing, uploading, downloading, accessing, transmitting or distributing material that is illegal, sexually explicit, discriminatory, defamatory or interferes with the productivity of coworkers. Specifically prohibited communications include, but are not limited to, communications that promote or transact the following: illegal activities; outside business interests; malicious use; personal activities (including chat rooms); jokes; political causes; football pools or other sorts of gambling; recreational games; the creation or distribution of chain letters; list servers for non-work purposes; "spams" (mailing to a large number of people that contain unwanted solicitations or information); sexual or any other form of harassment; discrimination on the basis of race, creed, color, gender, religion or disability; or for solicitations or advertisements for non-work purposes. Users may not engage in any use that violates copyright or trademark laws.

Also prohibited is any activity that could negatively impact public trust and confidence in the City or create the appearance of impropriety.

Users are also prohibited from posting information, opinions or comments to Internet discussion groups (for example: news groups, chat, list servers or electronic bulletin boards). Under no circumstances may any user represent their own views as those of the City.

Users may not disclose confidential or sensitive information. Personal information such as the home addresses, phone numbers, and social security numbers of Elected Officials or Employees should never be disclosed on the Internet.

11-14-6 NO PRESUMPTION OF POLICY. Although users may use passwords to access some electronic communication systems, these communications should not be considered private. Users should *always assume* that any communications, whether business-related or personal, created, sent, received or stored on the City's electronic communication systems may be read or heard by someone other than the intended recipient.

Users should also recognize that e-mail messages deleted from the system may still be retrieved from the computer's back-up system when requested by authorized personnel. Consequently, messages that were previously deleted may be recreated, printed out, or forwarded to someone else without the user's knowledge.

11-14-7 CITY'S RIGHT TO MONITOR USE. Under authorization of the Mayor, the City may monitor, intercept, access, and disclose all information created, sent, received, or stored on its electronic communication systems at any time, with or without notice to the user. The contents of computers, voice mail, e-mail and other electronic communications will be inspected when there are allegations that there have been breaches of confidentiality, security, or violations of this Electronic Communications Policy. These inspections will also be conducted when it is necessary to locate substantive information that is not readily available by less intrusive means. Before providing access to store electronic communications such as e-mail messages, written authorization will be required from the Mayor.

The contents of the computers, voice mail, e-mail and other electronic communications may be turned over to the appropriate authority when there are allegations that there have been violations of law.

In addition, the City will regularly monitor and maintain a log of the user's Internet access, including the type of sites accessed, the name of the server, and the time of day that access occurs. The Mayor will have access to this log upon request. They may use this information that was obtained through monitoring as a basis for employee discipline.

The Mayor may authorize individuals for investigative purposes to engage in activities otherwise prohibited by this policy.

11-14-8 PROHIBITED ACTIVITIES. Users shall not download software programs of any kind. No software is to be installed on City computers without the approval of the City Council. Users may not upload, download, or otherwise transmit copyrighted, trademarked, or patented material; trade secrets; or confidential, private or proprietary information or materials. Users may not use the City's electronic communication systems to gain unauthorized access to remote computers or other systems or to damage, alter, or disrupt such computers or systems in any way, nor may users use someone else's code or password or disclose anyone's code or password including their own. It is a violation of this policy for users to intentionally intercept, eavesdrop, record or alter another person's Internet and e-mail messages. Users may not allow unauthorized individuals to have access to or use the City's electronic communication systems, or otherwise permit any use that would jeopardize the security of the City's electronic communication systems. Also, users may not post an unauthorized home page or similar web site.

Users may not make unauthorized commitments or promises that might be perceived as binding the City. Users must use their real names when sending e-mail messages or other electronic communications and may not misrepresent, obscure or in any way attempt to subvert the information necessary to identify the actual person responsible for the electronic communication. Sending an e-mail message under a fictitious or false name is a violation of this policy. Likewise, using another user's account or login ID constitutes a violation of this policy.

11-14-9 PASSWORDS. Each user will maintain a unique password. Users must keep their passwords confidential and must never leave their computers unattended when logged into the system. Passwords shall be changed whenever a password may have been compromised or revealed or when the computer security system requests a new password.

Directories of user e-mail addresses may not be made available for public access. No visitors, contractors or temporary employees may use the City's e-mail without prior written authorization from the Mayor.

11-14-10 INTERNET USAGE. Access to the Internet from any PC connected to the City's network is only allowed in accordance with this policy. Alternate methods of Internet access, such as using a modem to access a personal dial-up Internet account is prohibited as it may compromise the City's network security exposing it to potential harm from computer hackers.

Sessions on the Internet are logged automatically in exactly the same way that phone numbers are logged in the phone system. Do not use the Internet for tasks that you would not want to be logged.

Web browsers leave "footprints" providing a trail of all site visits. Do not visit any site where you would be reluctant to leave your name and work locations.

Use appropriate judgment before filling out a form included in a Web page. The form shall pass through many interconnecting computers and networks before reaching its destination. Other individuals will be able to eavesdrop on it. Personal or valuable information on the form may not remain confidential. Under no circumstances should you ever put a Social Security number on the Internet.

An Internet message sent from the City's address constitutes a City communication; therefore, it should be composed and structured correctly. Whenever possible, spell check messages prior to transmission, especially when sending to a non-City address.

Sending e-mail from the City's address can be likened to sending a letter on City letterhead. Messages may be forwarded by the recipient to others, printed in a location where others may view the message, and/or directed to the wrong recipient. Also, computer forensic experts can often retrieve e-mail previously deleted. An ill-considered remark can return to haunt the sender later.

Be courteous and follow generally accepted standards of etiquette. Protect others' privacy and confidentiality. Consider the City's needs before sending, filing, or destroying e-mail messages. Remove personal messages, temporary records and duplicate copies in a timely manner.

11-14-11 RECORDS RETAINED. Certain significant types of e-mail messages or their attached files may be considered records and should be retained if required by the City's record-retention policies. Examples of messages sent by e-mail that may constitute records include:

- (A) policies and directives;
- (B) correspondence or memoranda related to official business;
- (C) work schedules and assignments;
- (D) agendas and minutes of meetings;
- (E) drafts of documents that are circulated for comment or approval;
- (F) any document that initiates, authorizes, or completes a business transaction; and
- (G) final reports or recommendations.

11-14-12 RECORDS DISPOSAL. The content and maintenance of a user's electronic mailbox are the user's responsibility. The content and maintenance of a user's disk storage area are the user's responsibility. Each user should review his/her electronic records for deletion every **thirty (30) days**.

Messages of transitory or little value that are not normally retained in record-keeping systems should be regularly deleted. Informational messages, such as meeting notices, reminders, informal notes, and telephone messages should be deleted once the administrative purpose is served. If it is necessary to retain any e-mail message for an extended period, transfer it from the e-mail system to an appropriate electronic or other filing system. With the approval of the Mayor, the City Clerk or one of his/her staff members designated by him/her is permitted to remove any information retained in an e-mail system for more than **thirty (30) days**.

11-14-13 ACCESSING USER E-MAIL DURING ABSENCE. During a user's absence, the Mayor may authorize the City Clerk to access the user's e-mail messages and electronic Internet records without the consent of the user when necessary to carry out normal business functions.

11-14-14 FIREWALLS AND NETWORK PROTECTION. Firewalls and other devices to ensure the safety of the City private network will be installed to protect all City Electronic Communication Systems. Local governments are often targets of hackers and unauthorized intrusions because of the unique types of information stored on their systems. For this reason, the City takes a *very cautious* approach to security regarding the Internet and e-mail. Policies to ensure the security of the system include, but are not limited to: blocking access to certain Internet sites; filtering out potentially threatening e-mail attachments; filtering out dangerous types of web pages including Java Script, and ActiveX programs. Other methods of security may be deployed as new threats are discovered.

Any attempts to bypass or disable the security features installed by the City will be in violation of this policy and may result in disciplinary action.

11-14-15 PASSWORD PROTECTION. Users should use caution when using encryption software or password protecting their files. Password protected files cannot be retrieved without the necessary password. The City is not responsible for any lost, damaged or inaccessible files that result from password protection.

11-14-16 VIRUSES AND TAMPERING. Any files downloaded from the Internet must be scanned with virus detection software before installation and execution. All computers designated as having access to the Internet and e-mail must have virus detection software installed on them. Users may not deliberately disable the virus protection capabilities of these systems. The intentional introduction of viruses, attempts to breach system security, or other malicious tampering with any of the City's electronic communication systems is expressly prohibited. Users must immediately report any viruses, tampering or other system breaches to the Mayor or a designated officer.

Many viruses are transmitted through the e-mail system as attachments. Caution should be practiced prior to the accessing of any attachments to e-mail messages. Never access any unexpected attachments without verifying the source and reason for it, even if you recognize the sender of the e-mail. It is common practice for hackers to alter the source of an e-mail in an attempt to spread a virus.

11-14-17 DISCLAIMER OF LIABILITY FOR USE OF THE INTERNET. The City is not responsible for material viewed or downloaded by users from the Internet. The Internet provides access to a significant amount of information, some of which contains offensive, sexually explicit and inappropriate material. It is difficult to avoid contact with this material; therefore, users of the Internet do so at their own risk.

11-14-18 DUTY NOT TO WASTE ELECTRONIC COMMUNICATIONS RESOURCES. Users must not deliberately perform actions that waste electronic communication resources or unfairly monopolize resources to the exclusion of other users. This includes, but is not limited to, subscribing to list servers, mailing lists or web sites not directly related to the user's job responsibilities; spending nonproductive time on the Internet; and doing large non-work related file downloads or mass mailings. Electronic communication resources are limited and users have a duty to conserve these resources.

11-14-19 E-MAIL ADDRESSES. The City reserves the right to keep a user's e-mail address active for a reasonable period of time following the user's departure to ensure that important business communications reach their respective department.

11-14-20 FREEDOM OF INFORMATION ACT REQUESTS. The City will not accept Freedom of Information Act (F.O.I.A.) requests from the public via the Internet. If a citizen e-mails a F.O.I.A. request to a user, the employee should notify the citizen that these requests must be made in writing in compliance with the Freedom of Information Code. **(See Chapter 22)**

11-14-21 USE OF CREDIT CARDS ON THE INTERNET. Before making purchases on the Internet, users who are authorized to use City credit cards must ensure that they are using a secured site. The City recommends that users do not use their credit cards over the Internet and expressly disclaims responsibility for any loss or damages that results from credit card usage over the Internet.

11-14-22 **VIOLATIONS.** Violations of this policy may subject employees to disciplinary action ranging from the removal of electronic communication privileges to dismissal from employment. City employees who observe violations of this policy are obligated to report the violations to the Mayor or City Clerk.

11-14-23 **POLICY CHANGES.** The City reserves the right to change this policy at any time with notice. Nothing in this policy is intended or should be construed as an agreement and/or a contract expressed or implied. Policy changes will be disseminated electronically or in written form within **forty-eight (48) hours** of taking effect after an ordinance has been adopted.

ARTICLE XV - SEXUAL MISCONDUCT POLICY

11-15-1 SEXUAL MISCONDUCT POLICY STATEMENT. The City will not tolerate and will seek to eradicate any behavior by its employees, volunteers or students which constitutes sexual misconduct toward another employee, volunteer or student. "Sexual misconduct" means any actual, attempted or alleged sexual molestation, assault, abuse, sexual exploitation or sexual injury. "Sexual misconduct" does not include "sexual harassment".

11-15-2 REPORTING PROCEDURES AND DESIGNATED SEXUAL ABUSE COORDINATOR. It is the express policy of the City to encourage victims of sexual misconduct, and their parents or guardians in the case of minors, to come forward with such claims. The City shall designate a Sexual Abuse Coordinator, who hereinafter shall be referred to as "Coordinator", who shall remain accountable for the implementation and monitoring of this policy. The identity of the Sexual Abuse Coordinator shall remain on file with the City. In order to conduct an immediate investigation, any incident of sexual misconduct shall be reported as quickly as possible in confidence, as follows:

(A) **Employees and Volunteers.** Employees and volunteers are required to report any known or suspected incidents of sexual misconduct. They must also report to their supervisor or the Coordinator. If the person to whom an employee or volunteer is directed to report is the offending person, the report should be made to the next higher level of administration or supervision.

(B) **Investigation and Confidentiality.** All formal complaints will be given a full impartial and timely investigation. During such investigation, while every effort will be made to protect the privacy rights of all parties' confidentiality cannot be guaranteed.

(C) **Discipline.** Any City employee or volunteer who is determined, after an investigation, to have engaged in sexual misconduct in violation of this policy will be subject to disciplinary action up to and including discharge.

False accusations regarding sexual misconduct will not be tolerated, and any person knowingly making a false accusation shall likewise be subject to disciplinary action up to and including discharge, with regard to employees or volunteers.

The City shall discipline any individual who retaliates against any person who reports alleged sexual misconduct or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to a sexual misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

11-15-3 CHILD ABUSE. Sexual abuse of a minor is a crime.

(A) **Child Abuse Incident Reporting and Follow-Up.** Any case of known or suspected child abuse of a minor must be reported immediately in compliance with Illinois mandatory reporting guidelines and to the Coordinator and the City Attorney's Office.

In the event that the Coordinator is first notified of an incident of known or suspected child abuse, the Coordinator shall immediately notify the child's parent or legal guardian as the case be, and the appropriate legal authorities as required by state or local law. The Coordinator shall prepare a Suspected Child Abuse Standard Report and immediately follow-up to investigate the incident and to ascertain the condition of the child. The Coordinator shall communicate any questions or concerns about any incident with the State's Attorney.

Any employee or volunteer involved in a reported incident of sexual misconduct or child abuse shall be immediately relieved of responsibilities that involve interaction with minors or shall be suspended, as determined by the employee's supervisor. Reinstatement of employees or volunteers involved in a reported incident of child abuse shall occur only after all allegations of child abuse have been cleared by the County.

(B) **Maintenance of Records and Documents.** The Coordinator shall maintain all records and documentation required by law or otherwise required by this and other such related policies of the City including all documents related to procedures for hiring-screening, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting follow-up and disciplinary action.

ARTICLE XVI – SOCIAL MEDIA POLICY

11-16-1 **MISSION STATEMENT.** It shall be the mission of the City to ensure its employees maintain professional conduct in their on and off work lives. This shall include the image an employee portrays of themselves on the internet and computer related media.

11-16-2 **PURPOSE.** The purpose of this policy is to outline the expectations of employees with respect to their use of social media and social networking and the direct effect such use has upon the reputation and perception of the City.

11-16-3 **POLICY.** Employees shall not use any form of social media or social networking, including but limited to: Facebook, Twitter, MySpace, LinkedIn, Tumblr, YouTube, Google+, Pinterest, Instagram, Foursquare, The Squad Room, usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, in any way so as to tarnish the City's reputation. Employees of the City are embodiments of our mission. It is vital that each employee accept their role as ambassadors of the department, striving to maintain public trust and confidence, in not only their professional actions but also in their personal and online actions. Any online activity that has the effect of diminishing the public's trust and/or confidence in the City will hinder the efforts of the City to fulfill its mission. Any online actions taken that detract from the mission of the City, or reflects negatively on the position of the City will be viewed as a direct violation of this policy. For police officers: by virtue of the position of peace officer, they are held to a higher standard than general members of the public and their online activities should reflect such professional expectations and standards.

11-16-4 **RULES AND REGULATIONS.**

(A) Employees are prohibited from using City computers or cell phones/devices for any unauthorized purpose, including the participating in social media or social networking.

(B) Employees are prohibited from using any social media or social networking platform while at work. Police officers may seek permission from the Mayor to use social media or networking for investigative or for public information purposes.

(C) Unless granted explicit permission, employees including police officers of the City are prohibited from posting any of the following in any social networking platform, either on their own sites, the sites of others known to them, the sites of others unknown to them, news media pages, or other information exchange forums:

- (1) Any text, photograph, audio, video, or any other multimedia file related to any investigation of the police department, both current and past.
- (2) Any text, photograph, audio, video, or any other multimedia file related to any past or current action of the City police department, either in homage or critique.
- (3) Any text, photograph, audio, video, or any other multimedia file that is related to any City department business or event.

(D) Employees who choose to maintain or participate in social media or social networking platforms while off work shall conduct themselves professionally and in such a manner that will not reflect negatively upon the City or its mission. In the course of operating or participating in such venues, the following rules shall apply:

- (1) Employees will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that reflects negatively upon the City.
- (2) Sexually graphic or explicit material, of any kind, shall not be posted by the employee on any form of social media or social networking sites.

- (3) Sexually graphic or explicit material posted by others to the employee's social media or social networking sites shall be immediately removed.
- (4) Weaponry, owned by the City, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites.
- (5) Weaponry, privately owned by any police officer, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites if such displays or depictions promote a disparaging image to the City.
- (6) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the public shall not be detrimental to the City's mission 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 XVII – ANTI-BULLYING POLICY

11-17-1 APPLICATION OF POLICY. The City finds a safe work environment is beneficial for employees and promotes productivity. Workplace bullying has been linked to absenteeism, drug and alcohol use, and sexual violence. The City considers workplace bullying unacceptable and will not tolerate it. The anti-bullying policy shall apply to all individuals who are employees, volunteers and contractors. For purposes of this policy:

- (A) **"Employee"** is defined as an individual working for the City for remuneration;
- (B) **"Volunteer"** is defined as an individual who volunteers services to the City without remuneration;
- (C) **"Contractor"** is defined as an individual who contracts with the City to provide services, or an individual who works for a contractor of the City.

11-17-2 DEFINITION. Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) placing the person in reasonable fear of harm to the person or the person's property;
- (B) causing a substantially detrimental effect on the person's physical or mental health;
- (C) substantially interfering with the person's productivity; or
- (D) substantially interfering with the person's ability to participate in or benefit from the opportunities offered by the employer.

Bullying may be intentional or unintentional. The City considers the following types of behavior illustrative examples of bullying: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

11-17-3 BULLYING PROHIBITED. Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, and any other distinguishing characteristic is prohibited in all places of employment, and an employer shall prevent bullying in its place of employment.

- (A) No person shall be subjected to bullying:
 - (1) during any period of employment activity;
 - (2) while working, on property of the employer, or at employer-sponsored or employer-sanctioned events or activities; or
 - (3) through the transmission of information from an employment utilized telephone, computer, computer network, or other similar electronic employer-utilized equipment.
- (B) Nothing in this policy is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment of the United States Constitution.

11-17-4 DISCIPLINARY ACTION. Any employee or volunteer who is determined, after an investigation, to have engaged in bullying in violation of this policy shall be subject to disciplinary action up to and including immediate discharge. Any contractor found to be in violation of this policy may be subject to contract cancellation.

(A) **False Accusations.** False accusations regarding bullying against employees, volunteers, contractors, or elected officials shall not be tolerated, and any person knowingly making a false accusation shall be subject to disciplinary action up to and including immediate discharge.

(B) **Retaliation for Reporting Bullying.** The City shall discipline any employee or volunteer who retaliates against any person who reports who reports alleged bullying, or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to bullying complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Contractors are likewise prohibited from retaliating.

11-17-5 REPORTING AND COMPLAINT PROCEDURE. The City encourages all employees, volunteers or contractors to promptly report any instance of bullying behavior. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of bullying. Therefore, while no fixed reporting period has been established, prompt reporting of complaints or concerns is encouraged so that rapid and constructive action can be taken. The City shall make every effort to stop alleged workplace bullying before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Reports of bullying will be treated seriously, and investigated promptly and impartially. The City further encourages all individuals to whom this policy applies to formally report any concerns of assault, battery, or other bullying behavior of a criminal nature to the City Attorney's office. The City Council requires any supervisor who witnesses bullying, irrespective of reporting relationship or his/her responsibility to address it, to promptly report this conduct to the Police Chief or the Mayor.

Individuals who believe they have experienced conduct that they believe violates this policy, or who have concerns about such matter, should report their complaints or concerns verbally or in writing to his or her supervisor, or the City Attorney, before the conduct becomes severe or pervasive. If a verbal report is made, it shall be documented in writing by the official to whom it is reported. Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to bullying conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that such behavior immediately stop.

ARTICLE XVIII – DOMESTIC AND SEXUAL VIOLENCE POLICY

11-18-1 PURPOSE OF POLICY. Domestic violence can permeate the lives and compromise the safety of employees with tragic, destructive and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past. Domestic violence represents a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against another in an intimate relationship or in the same household, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The City will take appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

11-18-2 DEFINITION. For purposes of this policy and pursuant to the Illinois Victims' Economic Security and Safety Act (VESSA), the following terms are defined as follows:

(A) **"Abuser":** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

(B) **"Domestic Violence":** Domestic violence means abuse by a family or household member, as defined by this policy pursuant to Section 103 of the Illinois Domestic Violence Act of 1986. Domestic violence includes sexual assault or stalking.

(C) **"Employee":** A person working for the City for remuneration for services.

(D) **"Family or Household Member":** For employees with a family or household member who is a victim of domestic or sexual violence, this means spouse, parent, son, daughter, other person related by blood or by present or prior marriage, another person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(E) **"Parent"** means biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter as defined herein.

(F) **"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under **eighteen (18) years** of age, or is **eighteen (18) years** of age or older and incapable of self-care because of a mental or physical disability.

11-18-3 VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA). The person against whom an abuser directs coercive and/or violent acts, including an employee who is a victim of domestic or sexual violence, or an employee's family or household member who is a victim of domestic or sexual violence, and whose interests are not adverse to the employee as it related to domestic or sexual violence.

11-18-4 POLICY.

(A) **Employee Awareness.** The City shall take reasonable actions to educate employees regarding the effects of domestic violence and methods to report such violence to authorities. It is the policy of the City that information on domestic violence and available resources shall be available to employees through the City Council and by this written policy, which shall be disseminated to employees.

(B) **Non-Discriminatory Policy.** Non-Discriminatory and Responsive Personnel Policies for Victimized Employees of the City shall ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- (1) Illinois law prohibits employers from interfering with, restraining, or denying the exercise of any right provided under VESSA. This law requires employers, when given **forty-eight (48) hours** prior notification, to allow time off for employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from the employer for the employee or the family or household member who is a victim.
- (2) Illinois law prohibits employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence.
- (3) An employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence and whose interests are not adverse to the employee as it relates to domestic or sexual violence, may take unpaid leave from work to address domestic or sexual violence by:
 - (a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the victim;
 - (b) obtaining services from a victim services organization for the victim;
 - (c) obtaining psychological or other counseling for the victim;
 - (d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the victim;
 - (e) seeking legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.
- (4) The employee shall be entitled to a total of **twelve (12) workweeks** of leave during any **twelve (12) month** period. This policy does not create a right for an employee to take an unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to, the unpaid leave time permitted by the federal Family Medical Leave Act. Leave may be taken intermittently or on a reduced work schedule. An employee may substitute accumulated paid leave for unpaid leave; however, the paid leave will count toward the number of workweeks used for purposes of this policy. The employee shall provide at least **forty-eight (48) hours** advance notice of the employee's intention to take leave, unless providing such notice is not practicable. No action will be taken against an employee for failing to provide **forty-eight (48) hours** advance notice if the employee provides certification that leave was used for the purposes outlined in **Section 11-18-4(B)(2)** of this Section and can demonstrate that advance notice was not practicable.
- (5) During a leave taken pursuant to this policy, the City shall maintain coverage under its group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of such

leave. If the employee fails to return from leave, however, the City may recover any premium costs it paid for such coverage if the reason for the employee not returning is other than the continuation, recurrence, or onset of domestic or sexual violence or circumstances beyond the control of the employee. Neither seniority nor leave benefits will accrue to the employee during unpaid leave.

- (6) The City, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family or household member who has been a victim of domestic violence, the employee's supervisor or the City Council (or their designee) will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- (7) The City requires certification from an employee for leave under this policy. The employee shall certify that the leave is for one of the purposes enumerated in **Section 11-18-4(B)** of this Section. Certification shall be provided to the employer within a time period set by the employer.
- (8) The City understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required certification to justify absences without compromising their safety. Therefore, the Mayor or his designee shall consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- (9) All information provided to the employer pursuant to notification and certification requirements of this policy, and the purposes for which leave may be requested pursuant to this policy, shall be retained in strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee, or otherwise required by applicable federal or State law. Reported information shall be kept private to the greatest extent possible by Federal law, State law, and City policy; however, information may have to be disclosed pursuant to a subpoena, Illinois Supreme Court Rules, a court of law, or where otherwise required by law. Where medical information is received by the City from an employee who is the victim of domestic violence, such medical information shall be kept confidential.
- (10) Employees who are victims of domestic violence and who are legally separated from a covered spouse or civil-union partner, shall be allowed to make reasonable changes in benefits at any time during the calendar year, provided the change is requested within **thirty (30) days** of the separation and is in accordance with the City policies, rules, and regulations.
- (11) The City will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.

(C) **Accountability for Employees Who are Abusers.** The City will hold employees, individuals who volunteer services to the City without remuneration (hereafter "volunteers"), and individuals who contract with the City or work for contractors of the City (hereafter "contractors"), accountable for engaging in the following behavior: (i) using City resources to commit an act of domestic violence; (ii) committing an act of domestic violence from or at the workplace or from any other location while on official City business; or (iii) using their job-related authority and/or City resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

Any physical assault or threat made by an employee, volunteer, or contractor, while on City premises, during working hours, while representing the City, or at a City-sponsored event, is a serious violation of this policy. This policy applies not only to acts against employees, but to acts against all other persons. Those found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.

- (1) In cases in which the City has found that an employee, volunteer, or contractor, has threatened, harassed, or abused an intimate partner at the workplace using City resources such as work time, workplace telephones, facsimile machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action.
- (2) In cases in which the City has verification that an employee, volunteer, or contractor is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee, volunteer or contractor has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the Mayor shall determine if corrective action is warranted.
- (3) In cases in which any employee, volunteer, or contractor intentionally uses his/her job-related authority and/or intentionally uses City resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his/her behavior, said individual may be subject to corrective or disciplinary action.

[NOTE: The mandated "sexual harassment" policy is found in Chapter 22 of this Code.]

ARTICLE XIX - DRUG FREE WORKPLACE POLICY

11-19-1 **DRUG FREE WORKPLACE.** All employees, as a condition of employment, shall comply with the City's Drug Free Workplace Policy that is found in this Division.

11-19-2 **PURPOSE OF POLICY.** Drug abuse affects all aspects of our lives - it threatens the workplace as well as the home, the school, and the community. The City must take a firm stance against illicit drug use. The use of drugs, which term for the purposes of this policy shall include alcohol in the workplace, is unacceptable since it can adversely affect health, safety, and productivity, as well as public confidence and trust. When drug use and/or involvement interferes with an employee's efficient and safe performance of work responsibilities and/or reduces the employee's dependability and accountability, it creates a problem for the whole organization.

Drug abuse inflicts notable human expense. Personal tragedies, feelings of anxiety and depression, and diminishing coping skills are reflected on an individual level. Dysfunctional and strained relationships mark the heavy burden felt by the families of the drug and alcohol abuser.

The cost of drug abuse, both on a personal and organizational level, is unacceptable. The rising incidence in substance abuse makes it imperative that the City combat this issue by implementing a zero tolerance policy of drug use in the workplace.

11-19-3 **DRUG FREE WORKPLACE STATEMENT.** The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the workplace. Controlled substance means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act. Disciplinary action, up to and including dismissal can be taken against employees for drug violations.

All employees will, as a condition of employment:

(A) Agree not to manufacture, distribute, dispense, or possess controlled substances or alcohol in the workplace.

(B) Notify their respective Superintendent of any arrest or conviction of any local, state or federal criminal drug statute no later than **twenty-four (24) hours** after such arrest or conviction.

(C) Abide by the conditions set forth in this statement.

11-19-4 **VIOLATIONS.**

(A) Employees are subject to discipline, including discharge for violation of the above policy.

(B) Require the satisfactory participation and completion of a State licensed drug rehabilitation program, as sanctioned by the employer.

(C) The City shall notify the appropriate State Agency from which grant funds were received of the employee's conviction within **ten (10) days** after receiving notice from an employee of any criminal drug statute conviction for a violation in the workplace.

11-19-5 **EMPLOYEE ASSISTANCE.** A referral network to assist those who may be experiencing problems with drugs and/or alcohol will be established for all City employees.

11-19-6 **STATUS OF EMPLOYMENT; REHAB COSTS.** There is no requirement by the employer to keep an employee on active employment status who is receiving rehabilitative treatment if it is determined that the employee's current use of drugs prevents the individual from performing work related duties or whose continuance on active status could constitute a threat to the property and/or safety of others. **The employee shall pay for all costs of rehabilitation.** The employee may use accumulated paid leave, and take unpaid leave pending treatment, at the discretion of the employer, and so long as the employee advised the Superintendent of use or abuse of drugs prior to occurrence of reasonable suspicion.

APPENDIX A

CARLINVILLE DRUG FREE WORKPLACE POLICY

PHILOSOPHY

Drug abuse affects all aspects of our lives - it threatens the workplace as well as the home, the school, and the community. The City must take a firm stance against illicit drug use. The use of drugs, which term for the purposes of this policy shall include alcohol in the workplace, is unacceptable since it can adversely affect health, safety, and productivity, as well as public confidence and trust. When drug use and/or involvement interferes with an employee's efficient and safe performance of work responsibilities and/or reduces the employee's dependability and accountability, it creates a problem for the whole organization.

Drug abuse inflicts notable human expense. Personal tragedies, feelings of anxiety and depression, and diminishing coping skills are reflected on an individual level. Dysfunctional and strained relationships mark the heavy burden felt by the families of the drug and alcohol abuser.

The cost of drug abuse, both on a personal and organizational level, is unacceptable. The rising incidence in substance abuse makes it imperative that the City combat this issue by implementing a zero tolerance policy of drug use in the workplace.

DRUG FREE WORKPLACE STATEMENT

The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace. Controlled substance means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act. Disciplinary action, up to and including dismissal can be taken against employees for drug violations.

All employees will, as a condition of employment:

1. Agree not to manufacture, distribute, dispense, or possess controlled substances or alcohol in the workplace.
2. Notify their respective Elected Official/Department Head of any arrest or conviction of any local, state or federal criminal drug statute no later than **twenty-four (24) hours** after such arrest or conviction.
3. Abide by the conditions set forth in this statement.

VIOLATIONS

1. Employees are subject to discipline, including discharge for violation of the above policy.
2. Require the satisfactory participation and completion of a State licensed drug rehabilitation program, as sanctioned by the employer.
3. The City shall notify the appropriate State Agency from which grant funds were received of the employee's conviction within **ten (10) days** after receiving notice from an employee of any criminal drug statute conviction for a violation in the workplace.

EMPLOYEE ASSISTANCE

A referral network to assist those who may be experiencing problems with drugs and/or alcohol has been established for all City employees.

ADDITIONAL PROVISIONS

There is no requirement by the employer to keep an employee on active employment status who is receiving rehabilitative treatment if it is determined that the employee's current use of drugs prevents the individual from performing work related duties or whose continuance on active status could constitute a threat to the property and/or safety of others. The employee shall pay for all costs of rehabilitation. The employee may use accumulated paid leave, or take unpaid leave pending treatment, at the discretion of the employer, and so long as the employee advised the Elected Official/Department Head of use or abuse of drugs prior to occurrence of reasonable suspicion.

APPENDIX B

**EMPLOYEE NOTIFICATION OF PERSONNEL CODE
AND DRUG FREE WORKPLACE POLICY AND DISCLAIMER OF EMPLOYMENT**

The Employee Code of the City is not intended to create any employment relationship with any employees that is contractual in nature. All employees are employed at the will of the City, and employees can be terminated at will. All employment policies of the City are subject to change without notice and/or approval of any employee. Any and all discipline and/or discharge procedures contained in this Code are illustrative in nature, and only provide examples of the manner in which employees may be disciplined or terminated. Any and all such procedures are not meant to be the sole or exclusive way in which discipline or discharge could occur.

By signing this disclaimer, the employee understands that the employment relationship between the employee and the City is NOT contractual in nature; that employment can be terminated at the will of the City, that all employment policies are subject to change without notice and/or approval of the employee; and that any and all discipline and/or discharge procedures contained in the Code are merely illustrative in nature, and are not meant to be the sole or exclusive manner in which discipline and/or discharge could occur.

I have been given a copy of the City's Employee Code, originally adopted and amended _____, 20____.

I understand that contained within the Employee Code is the Carlinville Drug Free Workplace Policy. I have read and understood the Drug Free Workplace Policy, and agree to abide by its terms and conditions.

Name _____

Date _____

This form is to be retained by the City Clerk.

APPENDIX C
EMPLOYEE CODE: DISCIPLINE FORM

Date _____

Employee Name _____

Employee's Job Position _____

City Department _____

Department Head _____

Type of Discipline (check one):

- _____ Verbal Reprimand
- _____ Written Reprimand
- _____ Probation
- _____ Suspension
- _____ Dismissal

State the Section of the Employee Code violated:

Section _____, Subsection _____, Page Number _

State any Code of Conduct violation, listing the Code of Conduct

Subparagraph Number _____

State the facts which support the violation _____

DATE _____

Elected Official/Department Head

DATE _____

(Signature of Employee)

APPENDIX D

AMERICANS WITH DISABILITY ACT GRIEVANCE PROCEDURE

1. All complaints regarding access or alleged discrimination should be submitted in writing to the 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 E

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: _____

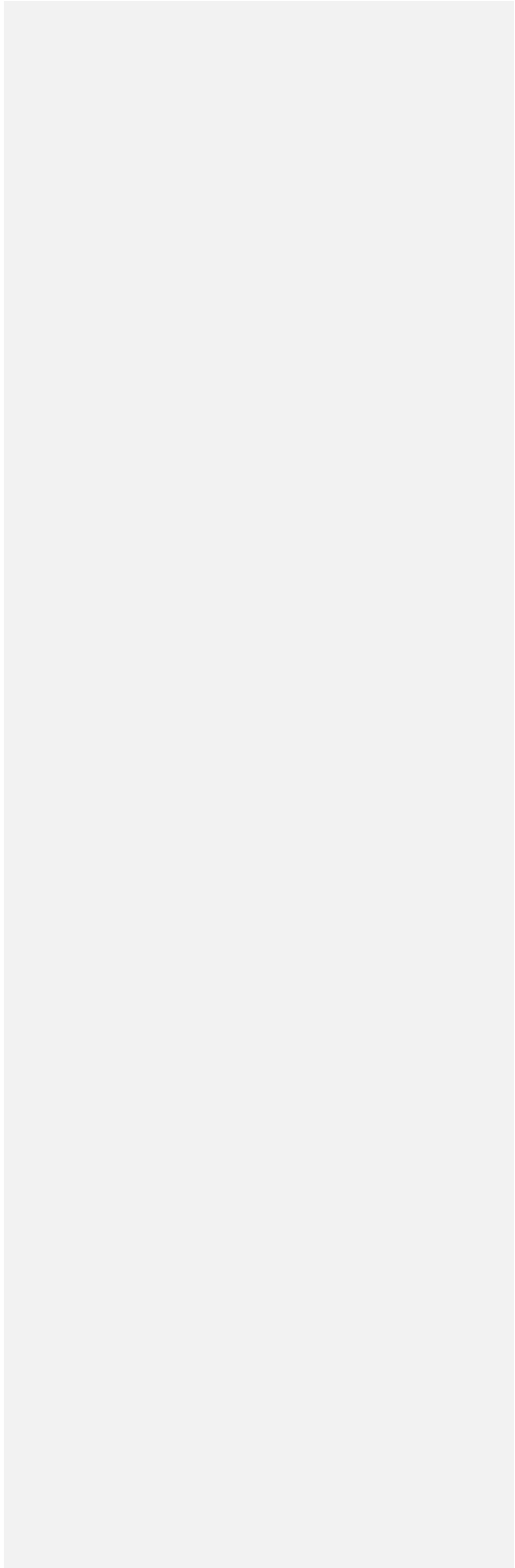
PAYROLL INSTRUCTIONS

With pay from _____ to _____ Employee # _____

Without pay from _____ to _____

Comments: _____

PLEASE FORWARD COMPLETED REQUEST TO THE CITY CLERK FOR FURTHER PROCESSING.



APPENDIX F
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 14 - FLOOD PLAIN CODE

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	<i>Section 14-1-11 - Variances</i>	<i>14-11</i>
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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 Secs. 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2**) in order to accomplish the following purposes:

- (A) To prevent unwise development 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 blight areas; and
- (F) To make federally subsidized flood insurance available.
- (G) To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

14-1-2 DEFINITIONS. For the purposes of this Chapter, 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 Chapter.

"BASE FLOOD ELEVATION" (BFE): The elevation in relation to mean sea level of the crest of the base flood.

"BUILDING": A structure that is principally above ground and is enclosed by walls and a roof, 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 to be installed on a site for more than **one hundred eighty (180) days** per year.

"CRITICAL FACILITY": Any public or private facility which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Examples are public buildings, emergency operations and communication centers, health care facilities and nursing homes, schools, and toxic waste treatment, handling or storage facilities.

"DEVELOPMENT": Any man-made change to real estate, including, but not necessarily limited to:

- (A) Demolition, construction, reconstruction, repair, placement of a building or any structural alteration to a building;
- (B) Substantial improvement of an existing building;

(C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days** per year;

(D) Installation of utilities, construction of roads, bridges, culverts, or similar projects;

(E) Construction or erection of levees, walls, or fences;

(F) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;

(G) Storage of materials including the placement of gas and liquid storage tanks; and

(H) 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.

"FEMA": Federal Emergency Management Agency.

"FLOOD": A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

"FLOOD FRINGE": That portion of the floodplain outside of the regulatory floodway.

"FLOOD INSURANCE RATE MAP": A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

"FPE" OR "FLOOD PROTECTION ELEVATION": The elevation of the base flood plus **one (1) foot** of freeboard at any given location to the floodplain.

"FLOODPLAIN" AND "SPECIAL FLOOD HAZARD AREA (SFHA)" are synonymous.

Those lands within the jurisdiction of the City that are subject to inundation by the base flood. The floodplains of the Macoupin Creek are generally identified as such on the Flood Insurance Rate Map of the City prepared by the Federal Emergency Management Agency and dated 1986. The floodplains of those parts of unincorporated Macoupin County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for Macoupin County by the Federal Emergency Management Agency and dated 1986. Floodplain also includes those areas of known flooding as identified by the community.

"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.

"FLOODWAY": That portion of the floodplain required to store and convey the base flood. The floodways for each of the floodplains of the City shall be according to the best data available from Federal, State, or other sources.

"IDNR/OWR": Illinois Department of Natural Resources/Office of Water Resources.

"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.

"NFIP": National Flood Insurance Program.

"REPETITIVE LOSS": Flood related damages sustained by a structure on two separate occasions during a **ten (10) year** period for which the cost of repairs at the time of each such flood event on the average equals or exceeds **twenty-five percent (25%)** of the market value of the structure before the damage occurred.

"SFHA": See definition of floodplain.

"SUBSTANTIAL DAMAGE": Damage to any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed **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.

"SUBSTANTIAL IMPROVEMENT": Any reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds **fifty percent (50%)** of the market value of the structure before the improvement or repair is started. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (i) 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 (ii) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

"TRAVEL TRAILER (OR RECREATIONAL VEHICLE)": 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
- (D) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

14-1-3 BASE FLOOD ELEVATION. This Chapter'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 any development of the site.

(A) The base flood elevation for the floodplains of Macoupin, Hurricane and Briar Creeks shall be according to the best data available from federal, state or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.

(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 Flood Insurance Rate Map of the City.

(C) The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the Flood Insurance Rate Map of the City shall be according to the best data available from federal, state or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.

(D) The base flood elevation for the floodplains of those parts of unincorporated Macoupin 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 of the Flood Insurance Study of Macoupin County prepared by the Federal Emergency Management Agency and dated 1986.

14-1-4 DUTIES OF THE ZONING ADMINISTRATOR. The Zoning Administrator shall be responsible for the general administration of this Chapter and ensure that all development activities within the floodplains under the jurisdiction of the City meet the requirements of this Chapter. Specifically, the Zoning Administrator 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 14-1-10** are met and maintain documentation of any variances granted;
- (G) Inspect all development projects and take any and all actions outlined in **Section 14-1-12** as necessary to ensure compliance with this Chapter;
- (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 Chapter; and
- (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 Chapter.
- (M) Perform site inspections and make substantial damage determinations for structures within the floodplain.
- (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 law shall commence any development in the floodplain without first obtaining a development permit from the Zoning Administrator. The Zoning Administrator shall not issue a development permit if the proposed development does not meet the requirements of this Chapter.

- (A) The application for a 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; and

- (4) the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of **Section 14-1-7** of this Chapter.
- (5) cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.

(B) Upon receipt of an application for a development permit, the Zoning Administrator shall compare the elevation of the site to be 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 Chapter. 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 Chapter. The Zoning Administrator 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.

14-1-6 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES. Within all floodplains where a floodway has not been delineated, the following standards shall apply:

(A) Except as provided in **Section 14-1-6(B)**, no development shall be allowed which, acting in combination with existing and anticipated development, will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

- (1) Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit No. 3;
- (2) Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 4;
- (3) Minor boat docks meeting the conditions of IDNR/OWR Statewide Permit No. 5;
- (4) Minor, non-obstructive activities meeting the conditions of IDNR/OWR Statewide Permit No. 6;
- (5) Outfall structures and drainage ditch outlets meeting the conditions of IDNR/OWR Statewide Permit No. 7;
- (6) Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 8;
- (7) Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9;
- (8) Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit No. 10;
- (9) Minor maintenance dredging activities meeting the conditions of IDNR/OWR Statewide Permit No. 11; and
- (10) Bridge and culvert replacement structures and bridge widenings meeting the conditions of IDNR/OWR Statewide Permit No. 12; and
- (11) Temporary construction activities meeting the conditions of IDNR/OWR Statewide Permit No. 13; and

- (12) Any development determined by IDNR/OWR to be located entirely within a flood fringe area.
- (B) Other development activities not listed in (A) may be permitted only if:
- (1) a permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required); and
 - (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 valued at more than **One Thousand Dollars (\$1,000.00)** or **seventy (70) square feet**;
- (2) Substantial improvements made to an existing building. This alteration shall be figured cumulatively beginning with any alteration which has taken place subsequent to the adoption of this Chapter;
- (3) Repairs made to a substantially damaged building. These repairs shall be figured cumulatively beginning with any repairs which have taken place subsequent to the adoption of this Chapter.
- (4) Structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%)**;
- (5) 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); and
- (6) Installing a travel trailer or recreational vehicle on a site for more than **one hundred eighty (180) days** per year.
- (7) Repetitive loss to an existing building as defined in **Section 14-1-2**.

(B) Residential or non-residential buildings can meet the building protection requirements by one of the following methods:

- (1) The building may be constructed on permanent land fill in accordance with the following:
 - (a) The lowest floor (including basement) shall be at or above the flood protection elevation;
 - (b) The fill shall be placed in layers no greater than **six (6) inches** before compaction and should extend at least **ten (10) feet** beyond the foundation before sloping below the flood protection elevation;
 - (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure;

- (d) The fill shall be composed of rock or soil and not incorporate debris or refuse materials; and
- (e) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary, stormwater management techniques such as swales or basins shall be incorporated; or
- (2) The building may be elevated in accordance with the following:
 - (a) The building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to flood waters;
 - (b) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
 - (c) If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a registered professional engineer or by having a minimum of one permanent opening on each wall no more than **one (1) foot** above grade. 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;
 - (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;
 - (e) the finished interior grade shall not be less than the finished exterior grade;
 - (f) all structural components below the flood protection elevation shall be constructed of materials resistant to flood damage;
 - (g) 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; and
 - (h) 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.

(C) shall be:

- Manufactured homes or travel trailers to be permanently installed on site
 - (1) Elevated at or above the flood protection elevation; 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.

(D) Travel trailers and recreational vehicles on site for more than **one hundred eighty (180) days** shall meet the elevation requirements of **Section 14-1-7(C)** unless the following conditions are met:

- (1) the vehicle must be either self-propelled or towable by a light duty truck. The hitch must remain on the vehicle at all times; and
- (2) the vehicle must not be attached to external structures such as decks and porches; and
- (3) the vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling; and
- (4) the vehicles largest horizontal projections must be no longer than **four hundred (400) square feet**; and
- (5) the vehicle's wheels must remain on axles and inflated; and
- (6) air conditioning units must be attached to the frame so as to be safe for movement out of the floodplain; and
- (7) propane tanks, electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation; and
- (8) the vehicle must be licensed and titled as a recreational vehicle or park model; and
- (9) the vehicle must be either:
 - (a) entirely supported by jacks rather than blocks 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.

(E) Non-residential building may be structurally dry floodproofed (in lieu of elevation) provided a registered 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; and
- (3) floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.

Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this Section.

(F) Garages or sheds constructed ancillary to a residential use may be permitted provided the following conditions are met:

- (1) the garage or shed must be non-habitable; and
- (2) the garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use; and
- (3) the garage or shed must be located outside of the floodway; and
- (4) the garage or shed must be on a single family lot and be accessory to an existing principal structure on the same lot; and
- (5) below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage; and
- (6) all utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation; and

- (7) the garage or shed must have at least one 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; and
- (8) the garage or shed must be less than **Seven Thousand Five Hundred Dollars (\$7,500.00)** in market value or replacement cost whichever is greater or less than **five hundred (500) square feet**; and
- (9) the structure shall be anchored to resist flotation and overturning; and
- (10) all flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and
- (11) the lowest floor elevation should be documented and the owner advised of the flood insurance implications.

(G) A building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:

- (1) 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 effective of buoyancy; and
- (2) any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exist 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; and
- (3) 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; and
- (4) the interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundation wall must not exceed **four (4) feet** at any point; and
- (5) 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; and
- (6) portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage; and
- (7) utility systems within the crawlspace must be elevated above the flood protection elevation.

14-1-8 SUBDIVISION REQUIREMENTS. The City Council shall take into account flood 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 Chapter. Any proposal for such development shall include the following data:

- (1) the base flood elevation and the boundary of the floodplain (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);
- (2) the boundary of the floodway when applicable; and
- (3) a signed statement by a Registered 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**).

Plats or plans for new subdivisions, manufactured home parks, and planned unit developments (PUDS) shall include a signed statement by a registered professional engineer that the plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (**Illinois Compiled Statutes, Chapter 765, Section 205/2**).

(B) Proposals for new subdivisions, manufactured home parks, travel trailer parks, planned unit developments (PUDS) and additions to manufactured home parks and subdivisions shall include base flood elevation data and floodway delineations. Where this information is not available from an existing study filed with the Illinois State Water Survey, the applicant shall be responsible for calculating the base flood elevation and the floodway delineation and submitting it to the State Water Survey for review and approval as best available regulatory data.

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 Chapter.
- (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) Critical facilities shall be protected to the 500-year flood elevation. In addition, all ingress and egress from any critical facility must be protected to the 500-year flood elevation.

(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 Chapter place undue hardship on a specific development proposal, the applicant may apply to the City Council for a variance. The City Council shall review the applicant's request for a variance. The City Council may attach such conditions to granting of a variance as it deems necessary to further the intent of this Chapter.

(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 or 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 required state and federal permits have been obtained.

(B) The City Council shall notify an applicant in writing that a variance from the requirements of the building protection standards of **Section 14-1-7** that would lessen the degree of protection to a building will:

- (1) Result in increased premium rates for flood insurance up to **Twenty-Five Dollars (\$25.00)** per **One Hundred Dollars (\$100.00)** of insurance coverage;
- (2) Increase the risks to life and property; and
- (3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

(C) Variances to the building protection requirements of **Section 14-1-7** of this Chapter requested in connection with the reconstruction, repair or alteration of a site or building included on the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirements of subsections (A)(1) through (A)(5) of this Section.

14-1-12 DISCLAIMER OF LIABILITY. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Chapter does not imply that development either inside or outside of the floodplain will be free from flooding or

damage. This Chapter does not create liability on the part of the City or any officer or employee thereof for any flood damage that results from proper reliance on this Chapter or any administrative decision made lawfully thereunder.

14-1-13 **PENALTY.** Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Chapter. Upon due investigation, the City Attorney may determine that a violation of the minimum standards of this Chapter exist. The City Attorney 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 Chapter or make such other order as the court deems necessary to secure compliance with this Chapter;
- (2) Any person who violates this Chapter shall upon conviction thereof be fined not less than **Fifty Dollars (\$50.00)** nor more than **Five Hundred Dollars (\$200.00)** for each offense; and
- (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- (4) The City shall record a notice of violation on the title to the property.

(B) The City Attorney 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.

(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 Chapter repeals and replaces other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program including Flood Plain Code 02-01-02. However, this Chapter does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this Chapter repeal, abrogate or impair any existing easements, covenants or deed restrictions. Where this Chapter and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 1533; 12-04-06)

CHAPTER 15 - FRANCHISES

<u>ARTICLE</u>		<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GENERALLY</i>		
	<i>Section 15-1-1</i>	- <i>Gas Utility Franchise</i>	<i>15-1</i>
	<i>Section 15-1-2</i>	- <i>Electric Utility Franchise</i>	<i>15-1</i>
	<i>Exhibit "A"</i>	- <i>Gas Franchise Agreement</i>	<i>A-1</i>
	<i>Exhibit "B"</i>	- <i>Electric Franchise Agreement</i>	<i>B-1</i>

CHAPTER 15

FRANCHISES

15-1-1 **GAS UTILITY FRANCHISE.** The City does hereby grant a gas franchise to AmerenIP as follows in Exhibit "A".

15-1-2 **ELECTRIC UTILITY FRANCHISE.** The City does hereby grant an electric franchise to AmerenIP as follows in Exhibit "B".

FRANCHISES EXHIBIT "A"

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMERENIP, 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 CARLINVILLE, COUNTY OF MACOUPIN AND STATE OF ILLINOIS

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 AmerenIP, its successors and assigns, to construct, operate and maintain a gas utility system within the City as originally authorized by an Ordinance approved on **July 2nd, 1956**. 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 AmerenIP, 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 Carlinville (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 so 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 compensation in the amount of \$13,530, payable in Year 1 within 30 days of the acceptance of this Ordinance by the Municipality, and thereafter, \$13,530 annually, within 30 days of each anniversary date. The payment is based on a customer count of 2522 gas customers. 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 gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this Ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

Section 8. 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 9. 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 10. 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 11. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in, upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

Section 12. 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 13. 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 14. 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 15. The Company shall be exempt from any special tax, assessment, license, rental or other charge by the Municipality 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 10 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. 1579; 11-17-08)

FRANCHISES EXHIBIT "B"

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMERENIP, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPEATE AN ELECTRIC UTILITY SYSTEM IN THE CITY OF CARLINVILLE, COUNTY OF MACOUPIN AND STATE OF ILLINOIS

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 AmerenIP, its successors and assigns, to construct, operate and maintain a utility system within the City as originally authorized by an Ordinance approved on **July 2nd, 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 AmerenIP, 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 Carlinville (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 application rules and regulations of the Illinois Commerce Commission.

When any street, avenue, or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any poles or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such poles or other equipment, and the Company's obligation shall be limited to resetting or relocating poles or other equipment of the same type and configuration as the displaced poles or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

Section 4. In order for Company to render efficient, safe, and continuous services, it will be necessary for Company to conduct vegetation management activities, including the trimming or pruning and cutting down of the trunks and branches of trees and/or vines and shrubs along or over the streets, sidewalks, alleys, avenues, squares, bridges and other public places in said Municipality, and areas dedicated to the Municipality for public utility use, wherever the same are likely to interfere with its equipment; therefore,

Company is hereby granted the right to conduct such vegetation management activities so as to enable it to erect, operate and maintain its equipment in a regular and consistent form and manner and to enable it to provide the most efficient, safe, and continuous service that the circumstances will permit; provided, however, that Company shall exercise proper care and discretion in its vegetation management activities. Company shall conduct its vegetation management activities in accordance with applicable law, including without limitation, 220 ILCS 5/8-505.1, and any amendments thereto. Notwithstanding the foregoing, to the extent applicable law may be superseded or modified by an agreement between Municipality and Company, Municipality and Company reserve the right to enter into such an agreement.

Section 5. The rates to be charged by the Company for electric service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

Section 6. As a further consideration for the rights, privileges and authorities granted by this Ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this Ordinance furnish to the said Municipality compensation in the amount of \$39,000, payable in Year 1 within 30 days of the acceptance of this Ordinance by the Municipality, and thereafter, \$39,000 annually, within 30 days of each anniversary date. The payment is based on a customer count of 3040 electric customers. 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 by the Municipality 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 that time in use by the Company.

Section 13. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

Section 14. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its constructed facilities. Company shall provide notice of excavation hereunder in accordance with the Illinois Underground Utility Damage Prevent 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 10 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. 1580; 11-17-08)

CHAPTER 16 - GARBAGE

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CHAPTER 16

GARBAGE

ARTICLE I – GENERAL REGULATIONS

16-1-1 **DEFINITIONS.** As used in this Code, the following definitions shall apply:

"GARBAGE" shall mean wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage, and sale of produce.

"RUBBISH" shall mean combustible trash, including, but not limited to paper, cartons, boxes, barrels, wood, excelsior, wood furniture, bedding; non-combustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including, but not limited to street sweepings, dirt, catch-basin dirt, contents of litter receptacles, provided, however, that refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations such as food processing wastes, boiler house cinders, lumber, scraps and shavings.

"YARD WASTE" shall mean material such as tree branches, yard trimmings, leaves and grass.

16-1-2 **LICENSE REQUIRED; FEE.** No person shall engage in the business as a residential or commercial collector of garbage and rubbish unless such person shall have first made application to and secured a license from the City and shall have provided proof of insurance required by the City. Commencing on **January 1, 2012**, an annual fee for a license shall be required to be paid to the City in the amount of **One Thousand Six Hundred Fifty Dollars (\$1,650.00)**. Any new licensee applying for a license to become effective during the first **six (6) months** of any **one (1) calendar year** shall owe the whole amount of said annual fee. Any new licensee applying for a license to become effective during July through December of any **one (1) calendar year** shall only be required to pay **one-half (1/2)** of the annual fee or **Eight Hundred Twenty-Five Dollars (\$825.00)**. Once a license is acquired by a collector of garbage, the said annual fee shall be due and owing on the **first (1st) day** of each and every calendar year. The non-payment of such fee shall cause one's existing license to become null and void.

There shall be no limit on the number of licenses to engage in the business as a residential or a commercial collector of garbage or rubbish within the City limits of Carlinville, Macoupin County, Illinois.

A license issued under this Chapter shall be purely a personal privilege and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. (**Ord. No. 1708; 08-05-13**)

16-1-3 **PARKED GARBAGE TRUCKS.** No truck carrying garbage or rubbish, or both, shall be parked or be permitted to stand anywhere in the City any longer than is

necessary to pick up containers; however, providing that the standing of such vehicle was made necessary by mechanical trouble, traffic conditions, accident or obedience to the direction of policemen or traffic signals, shall not be considered a violation of this Code.

16-1-4 **TRUCK WASTEWATERS.** A garbage truck or other equipment shall not be washed on City streets or public property and will not be washed where the wastewaters will cause any offensive odors to adjoining property owners.

16-1-5 **WINDBLOWN GARBAGE UNLAWFUL.** It shall be unlawful to place garbage or rubbish in such a manner as to allow the same to be blown by the wind onto the property of other residents.

16-1-6 **GARBAGE FALLING FROM TRUCK.** It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse or ashes on any public street or alley in the City, provided that this Code shall not be construed to prohibit placing garbage, refuse, or ashes in a container complying with the provisions of this Code, preparatory to having such material collected and disposed of in the manner provided herein.

16-1-7 **ACCUMULATION OF GARBAGE UNLAWFUL.** The fact that garbage or rubbish remains on an occupant's premises in the City in violation of this Chapter shall be prima facie evidence that the occupant of such premises is responsible for the violations of the Chapter occurring.

16-1-8 **LOCATION OF YARDS FOR EQUIPMENT.** A licensee shall designate the location of the yards on which his equipment will be parked while not in use and the equipment shall not be parked within the City limits unless the designated location shall not, in the opinion of the Chief of Police, create any nuisance for adjoining property owners.

The licensee shall have as additional equipment a truck for the disposal of large or unusual items of rubbish which cannot be placed in the designated containers and shall have available for such pickups such equipment at least **one (1) day** each week or on such additional days as may be necessary to satisfy the needs of the public.

16-1-9 **INDUSTRY, CONSTRUCTION, ETC.** Nothing in this Code shall be deemed to prevent or regulate the hauling of rubbish or refuse from industrial processes, from construction projects or other matter not normally collected on a regular schedule and haulers of rubbish not normally collected in regular collections shall be excused from the requirements of obtaining a collector's license as provided in this Chapter.

16-1-10 **REVOCAION OF PERMIT.** If the licensee fails to perform any services according to his application and rate schedule, the Mayor may revoke his permit.

(65 ILCS 5/11-19, et seq.)

ARTICLE II - LANDFILL FEE

16-2-1 **PERMIT.** No person shall conduct any waste storage, waste treatment of waste disposal operation within the City limits of the City under any of the following conditions: without all the permits required by law for such operation; in violation of the terms and conditions of the permits allowing such operation; in violation of any applicable laws, rules, ordinances or regulations governing such operation.

16-2-2 **SOLID WASTE MANAGEMENT FEE.** In accordance with **Chapter 415, paragraph 5/22.15(j) of the Illinois Compiled Statutes**, a solid waste management fee to be assessed and collected by the City is hereby established. Said fee shall be **Forty-Five Cents (\$0.45)** per cubic yard of solid waste deposited in landfills operating within the City limits of the City; provided, however, said fee shall be reduced to the maximum amount permitted by law when said fee exceeds the maximum amount permitted by law.

16-2-3 **SOLID WASTE MANAGEMENT FUND ESTABLISHED.** Collection of said fees shall begin and be in accordance with payment schedules set by the State of Illinois. Such fees shall be made payable to the City Treasurer by the owners and operators of the landfills located in the City limits of the City and retained by him in a fund designated as the Solid Waste Management Fund. This Fund shall be accounted for as required by law. The City Council shall make expenditures from this Fund for payment of any cost related to solid waste management. **(Ord. No. 1179; 04-03-89)**

CHAPTER 19 – LAKE CARLINVILLE

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CHAPTER 19

LAKE CARLINVILLE

ARTICLE I – GENERAL REGULATIONS

19-1-1 DEFINITIONS. Whenever the following words or terms are used in this Chapter they shall have the meanings ascribed to them as follows:

"RESERVOIR". The word "Reservoir" shall mean the artificial lake and water impounded therein by means of the public water supply dam constructed across the valley of Honey Creek in Macoupin County, Illinois, and by any other structure or structures heretofore or hereafter constructed within the limits of the hereinafter defined drainage area, which are used or for use as a public water supply for the City.

"DRAINAGE AREA". The words "Drainage Area" shall mean the entire area of land and water that drains into the reservoir or into Honey Creek or any tributary or other stream above said public supply dam.

"WATER COURSE". The words "Water Course" shall mean any stream, natural or artificial channel, spring or depression of any kind in which water flows continuously or intermittently over any part drainage area, directly or indirectly into any part of the reservoir.

"INTAKE". The word "Intake" shall mean the place where the water supply for the City is taken from the reservoir.

"SHORELINE". The word "Shoreline" shall mean the extended point where the plane of the surface of the waters of the reservoir touches land at spillway elevation.

"MARGINAL LAND". The term "Marginal Land" shall mean the land owned or controlled by the City adjacent to the shoreline and not flooded by the waters of the reservoir.

"PERSON". The word "Person" shall mean the feminine as well as the masculine when applicable, and the plural as well as the singular when applicable; it also includes firm, association, club, organization, or other entity.

"CUSTODIAN". The word "Custodian" shall mean any lessee from the City of any marginal land.

"CRAFT". The term "Craft" shall mean any boat or raft not permanently attached to the shore.

"GRAY WATER". The term "Gray Water" shall mean any water that is not clean or fresh water. Any water that has been used for bathing, washing clothes, dishes, etc. shall be considered "Gray Water".

19-1-2 BUILDING; STRUCTURES; PERMIT. No building or other structure whether for habitation or otherwise, including any dock, wharf, boat house, or anchored or stationary raft, shall be constructed, altered or maintained on the said lake or marginal land unless a permit in writing therefor, based upon a written application setting forth the location, specifications and intended use thereof, be granted by the City.

19-1-3 SEWAGE. No toilet, septic tank, sewer or other means for depositing, storing, retaining or disposing of sewage, or sink, or bathroom wastes, shall be built or

maintained on said marginal land unless a written permit, by the City, based upon a written application has been issued and remains unrevoked. Use of the Dump Station located across Carlinville Lake Road from the entrance is provided free to Campground patrons only.

19-1-4 **POLLUTION OF WATERS: WATERCOURSES.** No person shall in any part of the drainage area, place, throw, discharge or cause to be discharged, any sewage, garbage, decayed or other matter, into and so as to directly or indirectly, pollute or tend to pollute the reservoirs or other waters from which the City obtains a water supply. All discharge must be caught in a portable holding tank.

19-1-5 **LIVESTOCK; POULTRY.** No person shall cause or permit any domestic livestock or poultry to run at large on the marginal land. Any livestock or poultry found at large thereon may be taken up by the City and sold to pay the expense of taking, keeping, advertising and selling such livestock or poultry and all damage caused to the City or its property by such livestock or poultry. No animal or poultry shall be allowed to stand, wallow, wade or swim or be washed or watered in the Reservoir. No person shall bring, drive or lead any domestic livestock around said lake, except in lawful use of the public highway and except horses and draft animals while engaged in work or ridden on such portions as may be designated for riding or driving. No person shall cause or permit any horse or other animal to stand in any street, road or parkway unless securely hitched or in charge of some competent person.

19-1-6 **SWIMMING; BATHING AND WADING.** Swimming, bathing and wading are allowed in Lake Carlinville daily during the hours of **ten o'clock (10:00) A.M.** until **nine o'clock (9:00) P.M.** or sunset, whichever comes first, unless the swimming areas are otherwise closed by the authorities in charge. Such swimming, bathing and wading shall be only at the posted and marked areas called "Lake Carlinville Beach Area" and only between the Friday immediately preceding Memorial Day through Labor Day of each year.

(A) No person having any communicable disease or skin infection shall swim, bathe or wade in Lake Carlinville.

(B) All persons using the Lake for swimming, bathing or wading purposes shall use the same so as not to create any unsanitary condition in or about the Lake, and so as not to pollute the water thereof.

(C) The City, by posting, shall at all times have power and authority to prohibit swimming, bathing and wading in the water of the Lake.

(D) Swimming is permitted within the designated beachfront area only and is undertaken at the swimmer's own risk. No lifeguard is provided. Swimmers under **sixteen (16) years** of age must be accompanied by a swimmer **sixteen (16) years** of age or older. Any violation of any rule posted at the beachfront is grounds for ejection. **(Ord. No. 1662; 05-07-12)**

19-1-7 **BOATING; LICENSES.** No inboard engines will be allowed on Lake Carlinville; outside motor craft only. No boat or craft of any kind may be propelled, kept or used in Lake Carlinville or stored or kept on the marginal land until the owner thereof shall have complied with the laws of the State of Illinois in relation to boat ownership and boat operation,

and until the owner thereof shall have registered such boat or craft, and secured a written license and registration number from the City based upon a written application setting forth the length and draft of such boat or craft, its means of locomotion, and if propelled by motor or engine, the piston displacement or other power rating thereof, the maximum number of passengers said boat or craft may carry, its contemplated use, whether it is contemplated to be used for racing purposes, and such other further information as the City may from time to time require. Such license, when granted, shall be in writing and shall be further evidenced by an official registration number plate or marker to be furnished by the City if the City desires to do so to the licensee, and such plate or marker or boat identification shall be uniformly placed in such conspicuous position on the boat or craft as may be designated by the City and such boat license shall be exhibited on request to any agent, representative, or policeman of the City.

Notwithstanding anything to the contrary mentioned above, no boat or craft of any kind may be propelled, operated or used on Lake Carlinsville on those days designated for hunting waterfowl (**See Sec. 19-2-1**) by the Illinois Department of Conservation. This restriction does not apply to waterfowl hunters.

No person shall operate any water craft, which is propelled by a boat motor in excess of **seventy-five (75) horsepower**, or which is in any manner carrying a boat motor in excess of **seventy-five (75) horsepower** on Lake Carlinsville. Special Event Use permits may be issued at the discrepancy of the Committee and Lake Manager. No person shall have any boat motor on or in any water craft on Lake Carlinsville unless said motor has the manufacturer's serial number and model number displayed thereon, and unless such motor has the amount of its horsepower as specified by its manufacturer permanently marked on said motor in such manner as to be clearly visible and legible. The letters and/or numerals used in marking such horsepower shall not overlap and each shall be at least **one and one-half (1 1/2) inches** high and at least **one-half (1/2) inch** wide. Boat owners and operators shall show proof of compliance with this Section as deemed necessary by Lake Carlinsville law enforcement personnel. (**Ord. No. 1565; 02-18-08**)

19-1-8 **LICENSE FEES.** A license, unless issued for a special event (daily fee), shall expire on the next ensuing **December 31** and may be annually renewed by filing a like application before said boat or craft may be lawfully propelled or kept or used in and upon Lake Carlinsville. In order to provide a fund to be used to defray the expenses of inspection and supervision of boats and crafts on Lake Carlinsville, to enforce the navigation and the safety and pleasure of boating, said application or renewal must be accompanied by the payment of annual license fees to an authorized representative of the City as follows:

Class A. For each boat or craft which is not propelled with a motor or engine other than a trolling motor, the license fee for Carlinsville Water Users shall be **Twenty-Five Dollars (\$25.00)** and the license fee for those who are not connected onto the City of Carlinsville's water system shall be **Forty-Five Dollars (\$45.00)**.

Class B. **Thirty Dollars (\$30.00)**, or **Fifty Dollars (\$50.00)** for non-residents, for each boat or craft, which is propelled with a motor or engine of **two (2) horsepower** to and including **fifteen (15) horsepower**. (**Ord. No. 1725; 04-07-14**)

Class C. **Forty Dollars (\$40.00)**, or **Sixty Dollars (\$60.00)** for non-residents, for each boat or craft, which is propelled with a motor or engine of over **fifteen (15) horsepower** to and including **twenty-five (25) horsepower**. (**Ord. No. 1725; 04-07-14**)

Class D. **Forty-Five Dollars (\$45.00)**, or **Sixty-Five Dollars (\$65.00)** for non-residents, for each boat or craft, which is propelled with a motor or engine of over **twenty-**

five (25) horsepower, to and including forty (40) horsepower. (Ord. No. 1725; 04-07-14)

Class E. Fifty-Five Dollars (\$55.00), or Seventy-Five Dollars (\$75.00) for non-residents, for each boat or craft which is propelled with a motor or engine of over **forty (40) horsepower** to and including **sixty (60) horsepower. (Ord. No. 1725; 04-07-14)**

Class F. Seventy Dollars (\$70.00), or Ninety Dollars (\$90.00) for non-residents, for each boat or craft, which is propelled with a motor or engine of over **sixty (60) horsepower. (Ord. No. 1725; 04-07-14)**

(A) A **Five Dollar (\$5.00)** discount off the cost of the initial seasonal license fee will be offered to all applicants showing proof of Carlinville City residency.

(B) For the fractional part of any calendar year, the license fee shall be the same as hereinabove specified.

(C) The City may issue a special written permit for a period of **one (1) day** for the fee of **Ten Dollars (\$10.00)**. The discount in (A) above does not apply. **(Ord. No. 1635; 06-06-11)**

(D) Proof of Illinois Boat License is required at the time of purchase of Carlinville Lake Sticker.

(E) Upon the sale of any boat or craft, the license issued therefor shall cease to apply, but such license and the license number may be transferred to any other qualified boat or craft then owned by the vendor upon his written application and payment to the City of a transfer fee of **Fifteen Dollars (\$15.00)**, plus the excess, if any, of the license fee requirements for such other boat, or craft over that of the boat or craft so sold. The boat or craft so sold shall be removed from the Lake or registered by the purchaser as in the case of original registration. **(Ord. No. 1624; 03-07-11)**

19-1-9 EXHAUST GASES. No person shall operate, or cause to be operated any boat or craft equipped with an outboard motor regardless of whether such motor be temporarily or permanently attached to said boat or craft, on any of the water of Lake Carlinville, unless such outboard motor is equipped with an efficient muffler in good working order and constant operation so as to prevent excessive noise and annoying smoke. No outboard motor shall be deemed equipped with an efficient muffler unless the exhaust gases are discharged under water or are so muffled as to be not noisier or more annoying than an internal combustion machine of like power equipped with an underwater exhaust.

19-1-10 CUTOUTS PROHIBITED. No person shall use any boat or craft on the waters of Lake Carlinville, a muffler cutout or any device whatsoever that operates to discharge exhaust gases of any motor or engine without such gases passing through an efficient muffler.

19-1-11 BOATING USE LIMITATION: SPEED; OPERATING HOURS.

(A) **Speed Regulations.** No person shall operate any boat, or craft which is within **one hundred (100) feet** of the shore line at a greater speed than at the rate of **five (5) miles per hour.**

- (1) No boat or craft propelled by an outboard motor shall be operated at a greater speed than at the rate of **ten (10) miles per hour**, except in that area of Lake Carlinville which lies to the west of the recreational peninsula, said point also being known as the picnic

ground area point, and from this point, south across the Lake will be the boundary line east of which no boat or craft propelled by an outboard motor shall be operated at a greater speed than **ten (10) miles per hour**, said **ten (10) miles per hour** will only be exceeded even west of said line during the period between **April 1** and **October 31** between the hours of **ten o'clock (10:00 A.M.)** and **thirty (30) minutes** before sundown. During this time, the speed limit will be **thirty (30) miles per hour** on crafts propelled by outboard motors in the above area. After sundown, a no wake rule will apply to all boats. All such power propelled boats and crafts in that area of Lake Carlinville which lies to the west of the recreational peninsula, shall proceed in a counterclockwise traffic pattern. **(Ord. No. 1565; 02-18-08)**

- (2) Nothing herein shall be construed as permitting any boat or craft to be operated at a speed greater than is safe and prudent under the circumstances, and the operator thereof shall observe all signs and other regulations placed by the City on or near Lake Carlinville. During high volume times the City may limit the number of crafts upon Lake Carlinville, may post a reduced speed limit or prohibit any craft upon said Lake when the interest of the public or health or safety conditions so require. For reasonable and proper cause the City, acting through its authorized representative or agent, may suspend boating privileges or revoke the license of any boat owner.

(B) **Operating Hours.** No boat or craft of any kind or character shall be used, propelled or operated between the hours of sunset and sunrise unless it plainly displays a bright white light in the rear part of the boat or craft, visible from all quarters and twin lights or a combined lantern in the forward part of the same showing a green light to the starboard and a red light to the port side of the boat or craft, each colored light to be so shielded as to be not visible from across the beam of the boat.

No boat or craft of any kind or character shall be anchored between sunset and sunrise more than **twenty-five (25) feet** from the shore unless it displays an adequate light, clearly visible from any quarter by an approaching boat.

19-1-12 **LIFE PRESERVERS.** No boat or craft of any kind or character shall be operated on Lake Carlinville unless it carries for each occupant an adequate individual life preserver, in good condition, especially designed for that purpose. **(Ord. No. 1565; 02-18-08)**

19-1-13 **SIGNALING DEVICES; FIRE EXTINGUISHERS.** No boat or craft that may be operated or propelled by means of an outboard motor shall be used, kept or maintained on Lake Carlinville unless it is equipped with an adequate horn or signaling device and unless it is equipped with an adequate fire extinguisher. Sirens are prohibited on all boats and crafts except police craft.

19-1-14 RENTING BOAT; PASSENGERS. The business of renting boats for hire or carrying passengers for hire on Lake Carlinsville is prohibited except as may be authorized by special concession granted by the City of Carlinsville, but the provisions of this Chapter shall apply to all boats and crafts permitted by special concession, and all such concession boats or crafts shall be inspected from time to time during their period of operation on Lake Carlinsville. Any such boats or craft failing to have adequate life preservers in place as when licensed or otherwise failing to pass inspection shall be made to comply with the provisions of this Code before further operation. No individual operator or employee of anyone operating any boat unless he is physically fit for such duty, has adequate knowledge of the boat mechanism, is familiar with the laws, rules and regulations for the operation of boats on Lake Carlinsville and with the commonly approved safety regulations and measures to be used in case of accident or emergency, including instruction of passengers in the use of safety equipment and their conduct in case of emergency. Each such operator or employee shall at all times be subject to examination and approval by the City as to such qualifications; and any determination by the City as to such qualifications shall be conclusive.

19-1-15 STEERING; SAILING RULES. The following steering and sailing rules shall govern the use and operation of boats on Lake Carlinsville.

Rule 1. When **two (2) sailing boats** are approaching one another so as to involve risk of collision, one of them shall keep out of the way of the other as follows, namely:

(a) A boat which is running free shall keep out of the way of a boat which is closehauled.

(b) A boat which is closehauled on the left tack shall keep out of the way of a boat which is closehauled on the right tack.

(c) When both are running free, with the wind on different sides, the boat which has the wind on the left side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the boat which is to windward shall keep out of the way of the boat or craft which is to leeward.

Rule 2. When **two (2)** motor or engine driven boats are meeting end on, or nearly end on, so as to involve risk of collision each shall alter her course to right, so that each shall pass on the left side of the other.

Rule 3. When **two (2)** motor or engine driven boats are crossing so as to involve risk of collision the boat which has the other on her own right side shall keep out of the way of the other.

Rule 4. When a motor or engine driven boat and a sailing boat are proceeding in such directions as to involve risk of collision the motor or engine driven boat shall keep out of the way of the sailing boat.

Rule 5. The meeting or crossing of **two (2) boats** propelled by oars or muscular power shall be governed in the like manner as to motor boats under Rule 2 and Rule 3.

Rule 6. When a sailing boat or motor or engine driven boat meets, crosses the course of or overtakes a boat propelled by oars or muscular power, the sailing or motor or engine driven boat shall keep out of the way of the other.

Rule 7. Where, by any of the rules herein prescribed, one of **two (2) boats** shall keep out of the way, the other shall keep her course and speed.

Rule 8. Every motor or engine driven boat which is directed by these rules to keep out of the way of another boat, shall on approaching her, if necessary, slacken her speed or stop or reverse.

Rule 9. Notwithstanding anything contained in these rules every boat or craft overtaking any other shall keep out of the way of the overtaken boat or craft.

Rule 10. In obeying and construing these rules due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

Rule 11. Nothing in these rules shall exonerate any boat or craft, or the owner or operator thereof, from the consequences of any neglect to keep a proper lookout, or of a neglect of any precaution which may be required by the exercise of due care and caution or by the special circumstances of the case.

Rule 12. No boat or craft shall collide with, run against, strike, injure, deface or damage any buoy, stake, sign, piling or other structure installed by the City or with the City's consent, or be anchored or moored so as to obstruct the view of any buoy or navigation sign or signal.

(a) No boat or craft commonly known as a houseboat or craft on which the occupants have sleeping accommodations or remain more than a few hours, shall be permitted on the Carlinville Lake.

(b) No boat or craft used or operated on Lake Carlinville shall be equipped with toilet facilities without a special permit in writing from the City therefor, and maintenance and operation of special equipment for the storage of all wastes and disposal thereof on shore, all in a manner approved by the City.

(c) Persons using or operating any boat or craft on the waters of Lake Carlinville shall do so in such a manner as not to create any unsanitary condition in or about said waters and shall not pollute said waters by the discharge, in any material amount, of oil or other polluting liquor or solid tending to make said waters unwholesome or unfit for water supply purposes or injurious to the aquatic life thereof.

(d) No boat or craft shall be used, or operated, nor any horn, or sound device so as to create a nuisance or disturb the peace or quiet of any neighborhood.

(e) The City shall at all times have power and authority to prohibit, restrict or otherwise limit or regulate the keeping, maintenance or operation of any or all boats and craft on the waters of the reservoir should it become necessary to do in the interest of the public health or safety, or for the protection or improvement of Lake Carlinville or other cause.

(f) Any boat or craft found abandoned or adrift in Lake Carlinville or any unlicensed boat or craft thereon shall be taken up by the City and the City shall have a lien thereon for all license fees therefor and the expenses of taking, towing, keeping, advertising and selling of the same and for all damages caused by such craft to property of the City and may enforce such lien by advertisement and sale of such craft in like manner as chattel mortgages may be foreclosed under the laws of this State. Nothing herein shall be construed as exonerating the owner or operator of any boat or craft from personal liability to the City, or any other person, for any damage or injury caused by such boat or craft.

19-1-16 **LAUNCHING SITE.** The City will designate a launching site from which all boats and crafts entering Lake Carlinville will be launched. The City reserves the right to limit or deny access to the boat ramp at the Carlinville Lake Campgrounds during the time period of **November 1 to March 31**. Boat and craft owners launching on any other site may have their boat license suspended or revoked by the City.

19-1-17 **VOLUNTARY LAKE PATROL.** The City, by its Mayor and upon an approval by the Council, may appoint persons of reputable character interested in boating at Lake Carlinsville and familiar with boats and boating mechanisms as members of a voluntary lake patrol. The duties of said patrol to be set out by the Mayor with the approval of the Council.

19-1-18 **WATER SKIING.** Boats pulling skiers and the skiers themselves are required to stay **one hundred (100) feet** from the shore line. Skiers are required to move in a counterclockwise traffic pattern upon the Lake. Skiers violating the provisions of this Chapter, or not conducting themselves in the proper manner may be directed to cease their skiing activities by an agent of the City. Skiers are required to wear a life jacket or life belt. If the skier falls in the water, he is required to hold up one ski. It is required that **two (2)** competent persons be in the boat in addition to the skier, one to watch the skier and the other to take care of the boat. Skiers are required to leave the water **thirty (30) minutes** before sundown and no skiing is allowed after this time.

19-1-19 **LIQUOR; DRUGS; DISREGARD FOR SAFETY.** No person who is a habitual user of narcotic drugs or who is under the influence of intoxicating liquors or narcotic drugs shall operate any outboard motor boat or craft on the waters of Lake Carlinsville. No person shall operate any boat or craft with a willful or wanton disregard for the safety of persons or of property.

19-1-20 **FISHING.**
(A) No person over the age of **sixteen (16) years**, or other person required to be licensed by the laws of Illinois, now or hereafter, shall take, catch, or attempt to take or catch any species of fish, frogs or turtles, without a State of Illinois fishing license, in full force and effect, issued to said person and in his possession. All persons shall strictly adhere to the Game and Fish Code of the State of Illinois, and the amendments thereto. **(Ord. No. 1565; 02-18-08)**
(B) The privilege of fishing in the Reservoir or any part thereof may be suspended by the City at any time.
(C) The posting of any authorized sign on any part of said Lake shall suspend the privilege of fishing at such location.
(D) Fishing within **one hundred (100) feet** of the dam or spillway is prohibited.
(E) Jug fishing is not permitted at Carlinsville Lake I and Carlinsville Lake II. **(Ord. No. 1612; 07-19-10)**

19-1-21 **PICNICKING; CAMPING.** Picnicking and camping are prohibited on said Lake except:
(A) Upon such portions of said marginal land and at such times as may be designated by the City for such purpose or purposes.
(B) By any custodian or custodians of the marginal land, their families and guests upon such portions of the marginal lands as may have been leased to them.

(C) Any person picnicking or camping or making other use of said marginal land shall keep the premises neat and clean, pick up and remove in a sanitary manner all paper, garbage, rubbish, debris, and before leaving the premises put out any fire made by them.

(D) Any person camping shall not abandon camping equipment or leave it unattended for **twenty-four (24) hours** or more, and camping equipment may not be placed on any campsite before actual occupancy.

(E) Quiet shall be maintained in all areas at Lake Carlinville between the hours of **ten o'clock (10:00) P.M.** and **six o'clock (6:00) A.M.**

(F) Persons camping at Lake Carlinville shall pay the following fees: Seasonal campsites are **Nine Hundred Fifty Dollars (\$950.00)** for sites with less than 50 amp service and **One Thousand One Hundred Dollars (\$1,100.00)** for sites with 50 amp service, for the period from **April 1** to **October 31** of each year, due and payable on or before **April 1**. After **July 15**, the cost of said campsites is **Four Hundred Fifty Dollars (\$450.00)** for sites with less than 50 amp service and **Five Hundred Seventy-Five Dollars (\$575.00)** for sites with 50 amp service. A refund may be requested on a forfeited spot prior to **July 15**. All refunds are at the discretion of the City, and no refund will be in an amount greater than **Four Hundred Dollars (\$400.00)**. The title owner of the camper assigned to the site must also be the name on the seasonal campsite agreement. If a Lessee pays **Two Hundred Dollars (\$200.00)** as a winter storage fee before **November 1**, a Lessee may store a camper only on a spot designated by the City from **November 1** until **March 31** of the following year. Upon lease termination by either party, said person have **thirty (30) days** to remove property from the leased lot. Otherwise, it becomes property of the City. The City has the right to clean up and send the Lessee the bill. **One (1) tent** is permitted per seasonal campsite. Proof of insurance must be provided at time of payment and must be carried at all times. No outside freezers and refrigerators are allowed. Absolutely NO telephone service wired direct to any camper other than the Lake Caretaker's office. **(Ord. No. 1726; 04-07-14)**

(G) Temporary camping is available on a first-come, first-serve basis at said rate of **Twenty Dollars (\$20.00)** per night for sites with water and electrical hook-ups, and **Fifteen Dollars (\$15.00)** per night per tent for sites without hook-ups. **(Ord. No. 1623; 03-07-11)**

(H) All campers shall be positioned in a direction so that the hookup is accessible for emergency pull out. Electric and water hook-ups must be physically disconnected and all external furniture must be stored when campsite is not in use so as to prevent wind damage to other units. Lessee shall be responsible for the maintenance of the rental site. **(Ord. No. 1542; 03-19-07)**

(I) Lessee and Lessee's guests are responsible to follow the posted speed limit at all times. **(Ord. No. 1542; 03-19-07)**

(J) No "Gray" water discharge will be allowed at any time. Anyone caught discharging gray water may be asked to leave the park without a refund of fees.

During the Camping Season:

(1) Firewood must be neatly stored off the ground and adjacent to the camper unit.

(2) Waste materials must be kept clear of the site and deposited into the dumpsters provided.

(3) Air conditioners and heaters must be turned off when the unit is unoccupied for more than **twenty-four (24) hours**.

(4) All other permanent structures shall be stand-alone, not affixed to the camper. Structures must have committee approval prior to construction.

(5) No telephone service is allowed to be hard-wire connected to any site except the office.

(6) Noise loud enough to disturb other campers after **10:00 p.m.** is not permitted.

(7) Properly licensed watercraft may be parked on the campsite or on the public lot adjacent to the boat launch, or temporarily moved to the north of the boat launch.

(8) Public intoxication, indecent behavior, wanton disregard for public safety, or recurring abuses are grounds for ejection from the Campground and may be subject to criminal prosecution. Campers are responsible for the behavior of their guests.

(9) The Zeke Building will be opened by the Manager only. Any exception will be at the discretion of the Manager. The building and all its contents are open to the public. All contents must remain inside the building. Patrons of the building are responsible for cleanup, trash removal, replacement of items used, closing of windows, and shut down of lighting and fans.

(10) The Zeke Building can be closed to the public for private parties for a **Seventy-Five Dollar (\$75.00)** fee. An additional deposit of **Seventy-Five Dollars (\$75.00)** will be returned upon the Manager's inspection and approval.

(11) Disregard for any of the above rules are grounds for ejection at the Manager's discretion.

19-1-22 PROTECTION OF BIRDS; ANIMALS. No person shall trap, catch, kill or wound, or attempt to trap, catch, kill or wound any bird or animal, take any bird egg, or molest or rob any nest of any bird or animal on said Lake or marginal land.

19-1-23 DOGS, CATS AND PETS. Dogs, cats and pets are prohibited in recreation and picnicking and camping areas at Lake Carlinsville unless they are caged or on a leash no longer than **six (6) feet** at all times. At no time are dogs, cats and pets permitted on the beach areas. Campers are responsible for the noise pollution caused by their pets. Violators of this could be asked to leave at the Manager's discretion.

19-1-24 FIREARMS. No person shall fire or discharge any firearm of any description within the limits of said marginal land, but the City may license or authorize any person to use firearms, traps or other means to destroy any predatory or otherwise undesirable bird or aquatic life.

19-1-25 SKATING; ICE BOATING. No person shall skate or use any ice craft upon any of the ice of the reservoir, except at their own risk.

19-1-26 ICE CUTTING PROHIBITED. No ice cutting shall be permitted in or upon the water or ice of the reservoir.

19-1-27 **FIRES.** No fires should be lighted or used on the marginal land, except at such places as may be designated by the City for such purposes, and except by any custodian on the marginal land leased by him. Campfires must be confined to fire-pits already established at each site and be completely extinguished and all waste materials cleaned before leaving. Firewood must be neatly stored off the ground and adjacent to the camper unit.

19-1-28 **FIREWORKS; BALLOONS.** No fireworks or balloons shall be lighted or set off on said lake or marginal land, except under the supervision of, or special permit from the City.

19-1-29 **INJURY TO PROPERTY.**

(A) No person shall willfully, maliciously, or negligently cut, break, climb on, carry away, conceal, transfer, tamper with, mark upon, or in any way injure, damage, or deface any tree, shrub, plant, turf, grass, statue, bust, lamp post, hydrant, regulating device, transformer, meter, wire, wiring, pole, curbstone, caping, flagstone, fence, wall, bridge, balustrade, railing, bench, building, or other structure of any kind or property or take down, alter, mar, move, injure, or destroy any sign, trailmarker, placard, notice, post, pile or buoy posted or placed or growing by the City or authorized to be posted or placed by the City, on said lake and marginal land, or drive any motor car, vehicle or craft in such manner as to cause the same to deface or damage any such property.

(B) No person shall open any fire hydrant of the City except duly authorized firemen or agent of the City.

19-1-30 **BUSINESS ESTABLISHMENTS.** Unless duly authorized in writing by the City, no person shall maintain or operate any place of amusement for hire, store or stand for the sale of merchandise. Any license issued therefor by the City shall be kept conspicuously posted in such place of business or establishment.

19-1-31 **PEDDLING; BEGGING.** No person shall beg, solicit alms or do anything pertaining to soliciting, peddling or hawking on said lake or marginal land.

19-1-32 **ADVERTISING.** The erection or maintenance of any sign or bill poster, the posting of or placing of any advertising poster, placard or card or the distributing of any advertising matter by handbills, or otherwise, on said lake except signs posted by the City is prohibited.

19-1-33 **PROHIBITED GROUNDS.** No person shall go upon any portion of said lake or marginal land whereby a sign or notice, posted or authorized to be posted by the City, persons are prohibited from going or doing.

19-1-34 **TRAFFIC REGULATION; SIGNS; SIGNALS.** All persons shall obey all official signs and traffic signals and police officers of the City. The display of unauthorized traffic signs and signals is prohibited.

19-1-35 **TRESPASSING VEHICLES.** No vehicle shall be driven upon any part of said lake or marginal land except:

- (A) Upon roadways and parking places constructed or designated by the City for such use; and except;
- (B) By any custodian upon lands leased by him.

19-1-36 **PARKING.** No vehicle shall be permitted to stand in any of the following places except when necessary to avoid conflict with other traffic, or to comply with the directions of any police officer.

(A) Where parking or standing is indicated to be prohibited by any authorized sign.

(B) At any place where the standing and parking of a vehicle will block the use of any walk or driveway.

(C) At any place where the standing or parking of a vehicle will tend to obstruct the flow of a single line of traffic in each direction, or cause either of such lines of traffic to veer from its course in the center of the roadway.

(D) It shall be unlawful for any individual to park any motor vehicle along the roadways in the campgrounds or on any other areas in the park except those designated for parking.

Any individual convicted of violating **Sec. 19-1-36(D)** shall be subject to a fine of **Ten Dollars (\$10.00)** for each and every violation.

19-1-37 **SPEED.** No person shall drive a motor vehicle upon any boulevard, road, driveway or parkway at a speed that is greater than is reasonable and proper, having regard for the traffic and the use of the way and so as not to endanger the life, limb or injure the property of any person. The City may, from time to time, designate the maximum rate of speed on all boulevards, roads and parkways based on the location, nature and amount of traffic on the same and shall erect suitable signs indicating such maximum rates of speed. If the rate of speed of any motor vehicle operating on any boulevard, road or parkway shall exceed the rate of speed designated for said location, said rate of speed shall be prima facie evidence that the person operating said motor vehicle was running at a rate of speed greater than is reasonable and proper having regard for the traffic and use of the highway.

Driving motor bikes, snowmobiles or any other recreational vehicles within developed recreational sites, except where otherwise designated by appropriate signs, is prohibited. The driving of such vehicles for any purpose other than access to or egress out of the site also is prohibited.

The operation of a motor vehicle at any time without a muffler in good working order or operating a motor vehicle in such a manner as to create excessive or unusual or annoying smoke, or using a muffler cut off or by-pass or similar device, is prohibited.

19-1-38 **DISORDERLY CONDUCT.** The operation or use of any radio or noise-producing device in such a manner as to unreasonably annoy or endanger persons in any place at Lake Carlinsville is prohibited. No person shall commit in public any indecent, lewd or filthy act, or use any threatening or obscene language or make any indecent gesture, movement, or make any indecent exposure of his or her person, solicit, sell or offer to sell, give away or offer to give away, or have in his or her possession or display or exhibit in public any obscene or indecent book, pamphlet, paper, drawing, picture, model or any article for indecent or immoral use at Lake Carlinsville. Violators of these rules shall be asked to leave at Manager's discretion. Campers are responsible for the behavior of their guests.

19-1-39 **INTOXICATION.** No intoxicated person shall enter or remain in or around said lake or public grounds or marginal land. Violators of this rule shall be asked to leave at Manager's discretion. Campers are responsible for the behavior of their guests.

19-1-40 **LAKE POLICE OFFICERS.** It shall be the duty of police officers of the City and such special police as may be designated or appointed, to enforce the provisions of this Chapter. The City has the right to refuse anyone accommodations based on previous behavior. The resident manager acts as agent for the City and is available at the campground office.

19-1-41 **HUNTING PROHIBITED.** It shall be unlawful to hunt waterfowl on Lake Carlinsville, but will be permitted on Lake Carlinsville II in accordance with the applicable regulations in **Article II**.

19-1-42 **LEASED PROPERTIES.** The following rules shall govern the subdivision properties leased by the Lessee from the City.

(A) Lessee shall keep all of the leased premises in sanitary condition, decent, neat and free from noxious weeds and debris, and shall maintain all improvements thereon attractive in appearance and in good repair.

(B) Lessee shall install, use and maintain in sanitary condition such toilet, sewage, garbage, ash, and refuse facilities for the storage, treatment or disposal of solid or liquid waste as may be approved or required by the City, the State Department of Public Health or other public authority in charge of sanitation and public health. Lessee will allow the City to have all septic systems inspected at will and make immediate repairs as deemed necessary. Whenever sewer connections are made available to the leased premises and it is ordered by the City that connections are made therewith, the Lessee will connect with such sewer, all water closets, sinks and drains on the leased premises in the manner approved by the City. No gray water discharge is allowed at any time.

(C) Lessee shall be allowed to store one boat and trailer on the leased premises. No outside refrigerators or appliances of any kind are permitted on leased premises. No camping trailers other than the approved primary residence are permitted on the leased premises.

(D) Lessee shall care for and protect from injury all shade and ornamental trees, shrubbery and sod, and shall not remove, trim or permit the removal or trimming of any tree more than **three (3) inches** in diameter without the consent of the City, nor permit any

of the premises to be denuded of vegetation or to be cultivated in such a manner as to cause or permit soil erosion.

(E) Lessee shall comply with all rules, regulations and ordinances of the City relating to the premises and to said lake and surrounding lands and will not permit any violation thereof by any member of his/her family, guests, or any other person permitted access thereto by the Lessee, his/her family or guests, and the Lessee will not do, use or permit on or near the premises anything in violation of any state, federal or municipal law or the regulation or requirement of any public authority nor cause or permit any objectionable noise or odor to be emitted from the premises; nor permit on the premises any domestic livestock, poultry or noisy or dangerous dog; nor use or permit the premises to be used for any immoral or illegal purposes; nor do or permit anything to be done or remain on the premises or in/on said lake in any way tending to pollute the waters thereof or to create a nuisance or disturb the peace or quiet of the neighborhood or annoy any occupant or neighboring property.

(F) During the term of this lease, Lessee shall pay to Lessor the rent provided for in the signed lease.

(G) The Lessee shall also be responsible for and pay to the Lessor an annual fire protection fee of **Seventy-Five Dollars (\$75.00)**.

(H) The City reserves the right to refuse a lease to anyone.

(I) Upon lease termination by either party, said person has **thirty (30) days** to remove property from the leased lot. Otherwise, it becomes property of the City. The City has the right to clean up and send the Lessee the bill.

(Ord. No. 1622; 03-07-11)

19-1-43 **VIOLATION**. Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. All fines and penalties recovered or received for the violation of this Chapter shall be paid to the City and used for the policing, care, supervision, maintenance and improvement of said lake.

(Ord. No. 1523; 04-03-06)

ARTICLE II - LAKE CARLINVILLE II

DIVISION I – BOAT REGULATIONS

19-2-1 **BOATS PERMITTED.** Bass boats of plastic, aluminum or steel construction not exceeding **twenty-two (22) feet** in length and canoes shall be allowed on Carlinsville Lake II during the designated fishing hours from time to time established. Said boats or canoes shall be allowed to have electric trolling motors of any thrust rating. The use of gasoline motors is prohibited. No such boat or canoe shall be used on Lake Carlinsville II until the owner thereof shall have complied with the laws of the State of Illinois in relation to boat ownership and boat operation, and until the owner thereof shall have registered such boat or canoe and secured a written license and registration number from the City based upon a written application setting for the length and draft of such boat or craft and such other and further information as the City may from time to time require. Such license, when granted, shall be in writing and shall be further evidenced by an official registration number plate or marker to be furnished by the City if the City desires to do so to the license, and such plate or marker or boat identification shall be uniformly placed in such conspicuous position on the boat or canoe as may be designated by the City and such boat license shall be exhibited on request to any agent, representative, or policeman of the City.

(A) **Duck Blind Exception.** Boats not exceeding **twenty (20) feet** in length with outboard motors not exceeding **fifty (50) horsepower** may be used for the building and the removal of the duck blinds and for transportation to and from the duck blinds on the days allowed for hunting. Boats will be allowed to be moored at the water's edge only during the duck season. Boats left moored at the lake will be strictly at the owner's responsibility. The City of Carlinsville will not be responsible for any loss or damage to property left on lake property. **(Ord. No. 1648; 10-17-11)**

19-2-2 **TYPE OF LICENSE REQUIRED.** The type of license required to be obtained by the City with respect to a boat to be placed on Carlinsville Lake II shall be either a Class A license described in **Section 19-1-8** of the Revised Code of Ordinances or a special written permit for a period of **one (1) day** at a cost of **Ten Dollars (\$10.00)**.

19-2-3 **REGULATIONS AND LAUNCH AREA.** The boats and/or canoes authorized to be placed on Lake Carlinsville II shall only be launched from or at the designated launch area and shall be subject to all other rules and regulations from time to time established by the Lake Committee or the City Council.

19-2-4 **FLOATING BLINDS.** (Deleted by Ord. No. 1420)

19-2-5 - 19-2-10 **RESERVED.**

DIVISION II - HUNTING

19-2-11 **COMPLIANCE.** A person may hunt waterfowl upon Lake Carlinville II or the marginal lands thereof only upon those days designated for hunting waterfowl by the Illinois Department of Conservation and only when in compliance with the Game Code of Illinois and the following provisions.

19-2-12 **BLIND SITES AND DEPOSITS.** The City shall designate the location of blind sites by use of a stake, and each site will be numerically designated; blind sites are obtained annually only by City water users at a drawing for site numbers in the office of the Clerk, subsequent to **five (5) days'** public notice having been given of the time and place of the blind site drawing, and upon the payment of **Six Hundred Dollars (\$600.00)** annual fee for each blind site to the Clerk, which is non-refundable. Each blind site shall be registered to the name of **three (3)** eligible persons. All blinds shall be constructed within **fifty (50) feet** of the designated stake with numbered marker; it shall be unlawful for any person to construct or use any blind within **two hundred (200) yards** of any other blind. **(Ord. No. 1648; 10-17-11)**

19-2-13 **CONSTRUCTION AND REMOVAL OF BLINDS.** There will be allowed floating blinds only and the construction or the placement of the blinds on the lake shall not begin prior to **September 15** of each year. Blinds must be of a size large enough to accommodate **seven (7) hunters** and suitable blind area provided for concealment of a hunting boat where necessary. Blind construction must be of a sufficient sturdiness to provide adequate strength to withstand daily usage. Persons constructing blinds shall be required to maintain blinds in a proper state of repair during the hunting season. The blinds will be allowed to remain anchored on Lake Carlinville from **October 1** until the end of **two (2) weeks** after the close of the waterfowl season of each year unless a time extension is obtained in writing from the Lake Committee. Within the said **two (2) week** period or any other extension of time granted by the Lake Committee, the blinds will be removed from the blind site and the site cleared and cleaned up completely. All brush and debris used on the blind site shall be removed completely from the lake and surrounding property owned by the City. If a blind is not removed and cleared and cleaned as required above to the satisfaction of the Lake Committee within the required time period, the hunting privileges at Carlinville Lake and the privilege of being in any blinds at Carlinville Lake of each of the persons to whom the blind is registered shall be suspended for at least **three (3) years** by the Lake Committee. **(Ord. No. 1648; 10-17-11)**

19-2-14 **MANAGEMENT; CONTROL OF BLINDS.** The members of the Council appointed to and serving on the Lake Committee along with the Mayor and Clerk shall manage and control the designation of blind sites, construction of blinds, and allocating of said blinds by formulating rules and regulations consistent with the provisions of this Chapter but in addition thereto.

19-2-15 **HUNTING WATERFOWL.** All hunting of waterfowl shall be from blinds only. Scull boat hunting shall be unlawful.

A mailbox will be placed at the boat launch area of Lake Carlinville. All hunters must sign in before hunting and must sign out when leaving.

19-2-16 **FIRE AND GARBAGE REGULATIONS.** It shall be unlawful for any person during the open season to build any fire in the blinds or in the waterfowl hunting area except in stoves or in closed firepots.

All garbage shall be cleaned up and removed from the blind on a daily basis and shall not be disposed of on City property or in any garbage containers located at Lake Carlinville.

19-2-17 **COMMERCIALIZATION; BLIND REGULATION.** No commercialization of hunting rights, blinds or privileges, either directly or indirectly shall be permitted at Lake Carlinville, no person shall construct more than one blind, and such blind shall be identified by a registration card fastened to the blind giving names and addresses of persons constructing such blind. Only **three (3) hunters** shall be permitted to register in one blind. No blind may be occupied by more than **seven (7) hunters** at any one time. Blinds shall not be locked. **(Ord. No. 1648; 10-17-11)**

19-2-18 **ASSUMING RIGHTS TO BLIND.** It shall be unlawful for any person to assume or be granted exclusive rights to any waterfowl hunting blinds except that the person constructing blind for hunting purposes shall have the privilege to occupy such blind if said person is present and in the blind prior to **one-half (1/2) hour** before legal shooting time of each hunting day; after such time if blind is unoccupied by the person that constructed it, any person may occupy said blind and shall be privileged to its use until the end of the shooting hours for that day. **(Ord. No. 1555; 10-15-07)**

19-2-19 **INTOXICATING LIQUOR.** No intoxicating liquor shall be brought into or consumed upon the areas designated for hunting waterfowl or into the blinds. No person shall go into the areas or blinds designated for hunting waterfowl who is under the influence of alcohol or drugs.

19-2-20 **FISHING; TRAPPING; MINORS.** No fishing will be permitted on or adjacent to the waterfowl hunting areas during waterfowl season; no trapping of fur-bearers will be permitted on the waterfowl hunting areas during the waterfowl season; no person under **sixteen (16) years** of age shall be permitted on any of the designated areas unless accompanied by parent or guardian.

19-2-21 **VIOLATIONS AND SUSPENSION OF HUNTING PRIVILEGES.** Any persons violating the provisions herein are subject to being suspended indefinitely from being able to hunt waterfowl at Lake Carlinville and also from being in any of the blinds constructed and/or put on the lake. Prior to any type of a suspension, the offender shall be entitled to a hearing in front of the Lake Committee with a minimum of **five (5) days** notice of said hearing being given.

(Ord. No. 1523; 04-03-06)

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) trustees** 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 Library 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 the **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 **Chapter 1, Article III 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 (1) 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, Sections 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; (50 ILCS 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 **LIBRARY USE.** The library established shall be 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 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;
- (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 TERM; FEE SUBMITTED IN ADVANCE. Retail liquor licenses issued under this Chapter shall be valid for a **twelve (12) month period** upon the payment of the license fee as hereinafter set forth unless sooner revoked or suspended. The **twelve (12) month period** shall be from **May 1st to April 30th** of the following year.

In the event the annual retail liquor license is issued after **May 1** to cover a period for less than **twelve (12) months**, the license fee will be pro-rated on a monthly basis to reduce the license fee based upon the months remaining in the licensed **twelve (12) month** period as set forth above. There will be no refund of any part of the license fee after issuance of the license.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Local Liquor Control Commissioner as hereinbefore provided. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the City General Fund. The application for a license shall be filed with the City Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted, and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. **(235 ILCS 5/4-1) (Ord. No. 1630; 05-02-11)**

21-2-7 **CLASSES OF LICENSES; TERM; ANNUAL FEES.** Licenses as required by this Article shall be divided into **twelve (12) classes** as follows:

(A) **Class "A" Licenses: Full Service.** Class "A" licenses shall authorize the retail sale of alcoholic liquors of all kinds, on the premises specified, for consumption on the premises and for sale in packages to be removed from said premises. The annual fee for such license is **One Thousand Dollars (\$1,000.00)**.

The maximum number of licenses of Class "A" to sell alcoholic liquors shall be **ten (10)**. When it becomes necessary to revoke a Class "A" license to sell alcoholic liquor for the violation of this Code or for the violation of State law, no license shall be issued in place of the license revoked, until such time when the issuance of such new license would not increase the maximum number of Class "A" licenses to more than **ten (10)**.

(B) **Class "A-1" Licenses: Taverns.** Class "A-1" licenses shall authorize the retail sale of alcoholic liquors of all kinds, on the premises specified, for consumption on the premises only. Annual fee for such license is **Eight Hundred Dollars (\$800.00)**.

(C) **Class "A-2" Licenses: Pubs.** Class "A-2" licenses shall authorize the retail sale of alcoholic liquors of all kinds, on the premises specified, for consumption on the premises and for sale in packages to be removed from the said premises, and where meals are prepared for consumption on the premises or take-out. Annual fee for such license is **Seven Hundred Fifty Dollars (\$750.00)**.

(D) **Class "B" Licenses: Package Liquor.** Class "B" licenses shall authorize the retail sale of alcoholic liquors of all kinds in original packages to be removed from said premises, but not for consumption on the premises where sold. Annual fee for such license is **Six Hundred Dollars (\$600.00)**.

(E) **Class "B-1" Licenses: Package Beer and Wine.** Class "B-1" licenses shall authorize the retail sale of beer, or other malted beverages and wines in original packages to be removed from said premises, but not for consumption on the premises, except for product sampling as permitted by state law. Annual fee for such license is **Three Hundred Fifty Dollars (\$350.00)**.

(F) **Class "B-2" Licenses: Package Beer and Wine Special Events.** Class "B-2" licenses shall authorize the retail sale of beer, or other malted beverages and wines for consumption on the premises during Special Events authorized by the City Liquor Commissioner. This license shall only be issued to a valid Class "B" or "B-1" license holder. Special Event fee for such license is **Twenty-Five Dollars (\$25.00)** per event.

(G) **Class "C" Licenses: Clubs.** Class "C" licenses shall authorize the retail sale of alcoholic liquors of all kinds, for consumption on the specified premises by Clubs conducted and sponsored by any fraternal organization or lodge, except organizations whose membership consists exclusively of veterans of the military and naval services of the United States of America. The annual fee for such license is **Two Hundred Fifty Dollars (\$250.00)**.

(H) **Class "D" License: Veteran's Groups.** Class "D" licenses shall authorize the retail sale of alcoholic liquors of all kinds for consumption on the specified premises by local posts of national veterans' organizations where membership consists exclusively of veterans of the military and naval services of the United States of America. The annual fee for such license is **One Hundred Fifty Dollars (\$150.00)**.

(I) **Class "E" Licenses: All Sales Events.** Class "E" licenses shall authorize the retail sale of alcoholic liquors of all kinds during a sponsored event held within the City limits. Event sponsors must provide proof of Dramshop insurance coverage and valid State Liquor License prior to the start of the event. Event fee for such license is **Fifty Dollars (\$50.00)**.

(J) **Class "E-1" Licenses: Limited Sales Events.** Class "E-1" licenses shall authorize the sale of beer, or other malted beverages during a sponsored event held within the City limits. Event sponsors must provide proof of Dramshop insurance coverage and valid State Liquor License prior to the start of the event. Event fee for such license is **Twenty-Five Dollars (\$25.00)**.

(K) **Class "F" Licenses: Restaurants.** Class "F" licenses shall authorize the retail sale of alcoholic liquors of all kinds by restaurants, hotels, motels, bowling alleys and banquet halls during the hours when food is normally served. Annual fee for such license is **Six Hundred Dollars (\$600.00)**.

(L) **Class "F-1" Licenses: Restaurant Beer and Wine.** Class "F-1" licenses shall authorize the retail sale of beer or other malted beverages and wine for consumption on the premises by restaurants, hotels, motels, bowling alleys and banquet halls during the hours when food is served. Annual fee for such license is **Five Hundred Dollars (\$500.00)**.

The licensing fees shall be effective upon the expiration date of liquor licenses for existing licenses and upon the application date for new liquor licenses.

(Ord. No. 1679; 10-01-12)

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. The following shall apply with respect to liquor licenses issued by the City:

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other businesses 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) **Non-Operation.** 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, except as provided in paragraph (C) below.

(C) **Destroyed or Damaged Business.** A tavern or liquor business that has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within a **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 the applicable period of time as described in paragraphs (B) and (C) above 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.

(Ord. No. 1679; 10-01-12) (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)**

ARTICLE III - REGULATIONS

21-3-1 CLOSING HOURS.

(A) It shall be unlawful to offer for sale at retail, any alcoholic liquor in the City, between the hours of **one forty-five o'clock (1:45) A.M. and six o'clock (6:00) A.M.** in the morning of any week day and between the hours of **one forty-five o'clock (1:45) A.M. and twelve o'clock (12:00) noon** on Sunday of each week with the exception that the retail sale of liquor in packages to be removed from the premises shall be allowed after **ten o'clock (10:00) A.M.** on Sunday of each week.

(B) It shall be unlawful for a licensee or an agent or employee of his to permit any person or persons, other than the licensee and his agents and employees, to enter or remain in the premises, where the sale of alcoholic liquor for consumption upon the premises is licensed, between the hours of **two o'clock (2:00) A.M. and six o'clock (6:00) A.M.** in the morning of any week day and between the hours of **two o'clock (2:00) A.M. and twelve o'clock (12:00) noon** on Sunday of each week.

(C) The sale of alcoholic liquor at retail within the corporate limits of the City shall be permitted and authorized on Sunday of each week, excepting between the hours of **one forty-five o'clock (1:45) A.M. and twelve o'clock (12:00) noon** on said Sundays, provided that as indicated in Section (A) packaged liquor to be removed from the premises can be sold on Sundays after **ten o'clock (10:00) A.M.**

No alcoholic liquor shall be sold and all licensed premises must remain closed at all other times other than those specified above.

The times referred to above shall refer to Daylight Savings Time or when the same is in effect in the City and upon cessation of Daylight Savings Time, shall be Central Standard Time.

All patrons or customers shall leave the premises at the specified closing time and shall not remain on the premises thereafter.

(Ord. No. 1765; 03-07-16)

21-3-2 HAPPY HOUR RESTRICTIONS.

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Sell more than **one (1) drink** of alcoholic liquor for the price of **one (1) drink** of alcoholic liquor;
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided by **235 ILCS 5/6-28.5**;
- (3) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;

- (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
 - (5) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (4).
- (C) Permitted happy hours and meal packages, party packages, and entertainment packages.
- (1) As used in this Section:
 - (a) **"Dedicated event space"** means a room or rooms or other clearly delineated space within a retail licensee's premises that is reserved for the exclusive use of party package invitees during the entirety of a party package. Furniture, stanchions and ropes, or other room dividers may be used to clearly delineate a dedicated event space.
 - (b) **"Meal package"** means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting, or any combination thereof for a fixed price by a retail licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.
 - (c) **"Party package"** means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.
 - (2) A retail licensee may:
 - (a) offer free food or entertainment at any time;
 - (b) include drinks of alcoholic liquor as part of a meal package;
 - (c) sell or offer for sale a party package only if the retail licensee:
 - (i) offers food in the dedicated event space;
 - (ii) limits the party package to no more than **three (3) hours**;
 - (iii) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and
 - (iv) excludes individuals not participating in the party package from the dedicated event space;
 - (d) include drinks of alcoholic liquor as part of a hotel package;
 - (e) negotiate drinks of alcoholic liquor as part of a hotel package;
 - (f) provide room service to persons renting rooms at a hotel;

- (g) sell pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes, or bottles of alcoholic liquor which are customarily sold in such manner, or sell bottles of spirits;
- (h) advertise events permitted under this Section;
- (i) include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by a municipal ordinance that (i) restricts dates of operation to dates during which there is an event at an adjacent stadium, (ii) restricts hours of serving alcoholic liquor to **two (2) hours** before the event and **one (1) hour** after the event, (iii) restricts alcoholic liquor sales to beer and wine, (iv) requires tickets for admission to the establishment, and (v) prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single events only; and
- (j) discount any drink of alcoholic liquor during a specified time period only if:
 - (i) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;
 - (ii) the period of time during which any drink of alcoholic liquor is discounted does not exceed **four (4) hours** per day and **fifteen (15) hours** per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;
 - (iii) the drink of alcoholic liquor is not discounted between the hours of **10:00 P.M.** and the licensed premises' closing hour; and
 - (iv) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least **seven (7) days** prior to the specified time.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by **Article IV** of this Chapter. **(235 ILCS 5/6-28)**

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one**

hundred (100) feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(235 ILCS 5/6-11(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.

(E) **Consumption on Public Property.** It shall hereafter be unlawful for any person or persons to possess alcoholic liquor or intoxicating beverages, with the seal broken, or consume alcoholic liquor or intoxicating beverages, of any kind, nature or description, on the City Square in Carlinville, or on any City street or sidewalk or in the City Park in the center of the City Square, or any retail business establishment parking lot, provided however, that nothing in this Code shall preclude a person from possessing or consuming alcoholic liquor or intoxicating beverages within the confines of a tavern or dram shop licensed by the City. **(Ord. No. 1346; 08-19-96)**

21-3-12 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees [**topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward**], or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

(A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;

(B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(C) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

(D) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;

(E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-13 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(410 ILCS 650/1, et seq.)**

21-3-14 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(410 ILCS 650/10)**

21-3-15 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-16 PEDDLING. It shall be unlawful to peddle alcoholic liquor in this municipality. **(235 ILCS 5/4-1)**

21-3-17 GAMBLING. It is unlawful to keep, place, maintain or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, except in the following instances:

(A) **Bingo.** When conducting or participating in the game commonly known as Bingo, when conducted in accordance with the Bingo License and Tax Act **(230 ILCS 25/1 et seq.);**

(B) **Video Poker.** Video Gaming Terminal games at a licensed establishment, licensed fraternal organization, or licensed veteran's establishment, when conducted in accordance with the Video Gaming Act. **(230 ILCS 40/1 et seq.)**
(Ord. No. 1679; 10-01-12)

21-3-18 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(235 ILCS 5/4-1)**

21-3-19 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or

mentally ill, 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)**

21-3-20 PERSONS SELLING LIQUOR. It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any licensed retail premises. **(235 ILCS 5/4-1) (Ord. No. 1516; 12-05-05)**

21-3-21 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 Class "A" or "A-1" liquor license, unless accompanied by a parent or legal guardian. It shall be unlawful for the holder of a Class "A" or "A-1" liquor license or any officer, association, member, representative, agent or employee of such holder to 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 liquor license, or his agent or employee, shall 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 guardian. **(235 ILCS 5/4-1) (Ord. No. 1679; 10-01-12)**

21-3-22 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(235 ILCS 5/6-20)**

21-3-23 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(235 ILCS 5/6-20)**

21-3-24 TRANSFER OF IDENTIFICATION CARD. No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false

information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(235 ILCS 5/6-20)**

21-3-25 **POSTING WARNING.** In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

“YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR.”

21-3-26 **EXCLUSIONARY PROVISION.** The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(235 ILCS 5/6-20)**

21-3-27 **INSPECTIONS.** It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(235 ILCS 5/4-4)**

21-3-28 **BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS.** It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(235 ILCS 5/6-10)**

21-3-29 **RESTRICTIONS ON LICENSEE.** In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-30 SELLING FALSE IDENTIFICATION. Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-31 FALSE IDENTIFICATION. Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-32 UNDERAGED DRINKING ON STREETS. Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(235 ILCS 5/6-16)**

21-3-33 RESIDENTIAL DRINKING. Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **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)**

21-3-34 RENTING HOTEL ROOMS FOR DRINKING. Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-35 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.

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 be appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. (235 ILCS 5/7-9)

21-4-12 **SUBSEQUENT VIOLATIONS IN A YEAR.** In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period.** **(235 ILCS 5/7-9)**

21-4-13 **APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION.** Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(235 ILCS 5/7-9)**

APPLICATION FOR CITY LIQUOR RETAILER'S LICENSE

TO: Mayor
City of Carlinville
550 N. Broad St.
Carlinville, IL 62626

The undersigned hereby make(s) application for the issuance of a city retailer's license for the sale of alcoholic liquor for the term beginning _____, 20____, and ending _____, 20____, and hereby certify(ies) to the following facts:

- 1) Applicant's full name _____
(If a partnership or corporation give names of all owners of more than 5%)
Name under which business is to be conducted: _____
- 2) Location of place of business for which license is sought _____
 - A) _____
Exact address by street and number/zip code
 - B) _____
(Full description of location, place or premises, specifying floor, room, etc.)
- 3) State principal kind of business _____
- 4) Class of license applied for _____
- 5) Does applicant seek a license to sell alcoholic liquor upon the premises as a restaurant? _____
If so, are premises:
 - A) Maintained and held out to the public as a place where meals are actually and regularly served? _____
 - B) Provided with adequate and sanitary kitchen and dining room equipment and capacity with sufficient employees to prepare, cook and serve suitable food? _____
- 6) Does applicant own premises for which this license is sought? _____
- 7) Has applicant a lease on such premises covering the full period for which the license is sought? _____ If so, attach copy.
- 8) Is applicant licensed as a food dispenser? _____
- 9) Is the location of applicant's business for which license is sought within 100 feet property line to property line, of any school, hospital, home for aged or indigent persons, or for veterans, their wives or children, or any military or naval station, or 100 feet building to building from a church? _____
- 10) Is any law enforcing public official, mayor, alderman, member of the city council or commission, or any president or member of a county board directly interested in the business for which this license is sought? _____
- 11) Has any manufacturer, importing distributor or distributor directly or indirectly paid or agreed to pay for this license, advanced money or anything of value, or any credit (other than merchandising credit in the ordinary course of business for a period not to exceed 30 days), or is such person directly or indirectly interested in the ownership, conduct or operation of the place of business? _____

- 12) Is the applicant or any affiliate, associate, subsidiary, officer, director or other agent engaged in the manufacture of alcoholic liquors? _____

 If so, at what location or locations? _____
- 13) Is the applicant engaged in the business of an importing distributor or distributor of alcoholic liquors? _____
 If so, at what location or locations? _____
- 14) Will the business be conducted by a manager or agent? _____
 If so, give name and residence address of such manager or agent:
 Name _____
 Address _____
- 15) Do you hold any other current business licenses issued by the City? _____ If so, what type of license do you currently hold and what is the address of the licensed premises?
 (Type) _____
 (Address) _____

Individual Applicant:

- 16) A) Name _____
 Date of birth _____
 Month/Day/Year
- B) Residence address _____
 (give street and number)
 Telephone number _____
- C) Place of birth _____
- D) Are you a citizen of the United States? _____
 If a naturalized citizen, when naturalized? _____
 Month/Day/Year
 Where naturalized? _____
 (City and State)
 Court in which (or law under which) naturalized _____
- E) Have you ever been convicted of any felony under any Federal or State law? _____
 If so, give date and state offense _____
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? _____
 If so, give dates and state offense _____
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? _____
 If so, give dates and state offense _____
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? _____
- I) Have you made application for other similar license for premises other than described in this application? _____
 If so, give date, location of premises and disposition of application _____

- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? _____
If so, state reasons therefor and date(s) _____

Co-partnership/Corporate Applicant:

- 17) A) Name of partner, or corporate officers and directors and shareholders, if any: (attached separate sheet if necessary)
Date of birth _____
Month/Day/Year
- B) Residence address _____
(City and State)
Telephone number _____
- C) Place of birth _____
Month/Day/Year
- D) Are you a citizen of the United States? _____
If a naturalized citizen, when naturalized? _____
Month/Day/Year
Where naturalized? _____
(City and State)
Court in which (or law under which) naturalized _____
- E) Have you ever been convicted of any felony under any Federal or State law? _____
If so, give date and state offense _____
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? _____
If so, give dates and state offense _____
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? _____
If so, give dates and state offense _____
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? _____
- I) Have you made application for other similar license for premises other than described in this application? _____
If so, give date, location of premises and disposition of application _____
- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? _____
If so, state reasons therefor and date(s) _____

APPENDIX IV

AFFIDAVIT

STATE OF ILLINOIS)
) **SS**
COUNTY OF MACOUPIN)

I (or we) swear (or affirm) that I (or we) will not violate any of the ordinances of the City of Carlinville 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)

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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) **Flags.**

Suspicious Account Activity or Unusual Use of Account; Red

- (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 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)
circumstances:

The prohibitions in subsection (B) do not apply in the following

- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the City must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's Social Security Number will be achieved.
- (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
- (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: City employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a City facility.
- (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
- (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the City for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

22-2-3 PUBLIC INSPECTION AND COPYING OF DOCUMENTS.

Notwithstanding any other provision of this policy to the contrary, all officers and employees of the City must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an

individual's Social Security Number. All officers and employees of the City must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

22-2-4 APPLICABILITY.

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

22-2-5 COMPLIANCE WITH FEDERAL LAW. If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the City shall follow that law.

22-2-6 EMBEDDED SOCIAL SECURITY NUMBERS. Beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

22-2-7 IDENTITY--PROTECTION REQUIREMENTS.

(A) All officers, employees and agents of the City identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the City is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the City Council within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The City shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the City amends this Privacy Policy, then the City shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

22-2-8 **PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereafter.

22-2-9 **AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the City Council as the City Council shall deem necessary in its sole discretion in order to maintain the City's compliance with the Illinois Identity Protection Act as now or hereafter amended.

22-2-10 **CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]

ARTICLE III - FREEDOM OF INFORMATION POLICY

22-3-1 PUBLIC RECORDS AVAILABLE. To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the City shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

22-3-2 DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.

(A) The City Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the City under the Freedom of Information Act, insure that the City responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the City shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the City receives the written request;
- (2) Compute the date on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the City, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

22-3-3 PROCEDURES. The City shall prominently display at the City Clerk's office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the City, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the City, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

22-3-4 REQUESTS TO INSPECT OR COPY. All requests to inspect or copy records or documents prepared, maintained or under the control of the City shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the City.

(B) The written request shall be submitted to the City Clerk or to the Mayor. If neither the City Clerk nor the Mayor is available, the request shall be submitted to any employee of the City acting under the direction of the City Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the City, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business days** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the City may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the City agree to extend the period for compliance, a failure by the City to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at City Hall. If the person making the request asks the City to mail the documents, he or she shall provide the City with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the City shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic

format, then the City shall furnish it in the format in which it is maintained by the City, or in paper format at the option of the person making the request.

(Ord. No. 1713; 09-16-13)

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.

(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 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.

(A) The regulations of Sections 5-15 (**5 ILCS 430/5-15**) and Article 10 (**5 ILCS 430/10-10 through 10-40**) of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the “Act” in this Section) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by **5 ILCS 430/70-5**.

(B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the City, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E) For the purposes of this Section, the terms “officer” and “employee” shall be defined as set forth in **5 ILCS 430/70-5(c)**.

(F) The penalties for violations of this Section shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G) This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a)**.

(H) Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the City.

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the City.

(Ord. No. 1495; 05-17-04)

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.

(Ord. No. 1684; 11-19-12)

ARTICLE VIII - DRUG FREE WORKPLACE

22-8-1 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.

22-8-2 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 IX – DRUG/ALCOHOL TESTING POLICY AND PROCEDURE

22-9-1 **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.

22-9-2 **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.***

22-9-3 **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.

22-9-4 **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.

22-9-5 **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.

22-9-6

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.

22-9-7 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.

22-9-8 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 X – POLICY PROHIBITING SEXUAL HARASSMENT

22-10-1 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 the City to prohibit harassment of any person by any city official, city agent, city employee or city agency or office on the basis of sex or gender. All city officials, city agents, city employees and city agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

22-10-2 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."

22-10-3 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, the City Clerk, or the Mayor.

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 City. However, all city 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 City. 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.

22-10-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.

(A) No city official, city employee or city agency or office shall take any retaliatory action against any city employee due to a city 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 city employee that is taken in retaliation for a city 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.

22-10-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT. In addition to any and all other discipline that may be applicable pursuant to city 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 City 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.

22-10-6 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. 1797; 11-19-18)

**ARTICLE X – 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 President or the City Trustees. 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.

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 _____, 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. As an alternative the unit shall be installed on a foundation required by the manufacturer.

"PERMANENT HABITATION" means a period of **two (2) or more months**.

"PERMIT" means a certificate issued by the Building or Zoning Administrator, 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.

23-1-13 **OWNER OCCUPIED.** All manufactured housing units shall be used and occupied by the owner or his immediate family as a residence. If the unit is not located in a licensed manufactured home park, then the lot should be owned by the owner-occupant of the manufactured housing unit.

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 **four thousand (4,000) 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 be placed on either a reinforced concrete pad at least **fourteen feet wide by sixty feet in length (14' x 60')**, **two (2) reinforced concrete runners four feet wide and sixty feet in length (4' x 60')**, or on a permanent foundation specified by the manufacturer. The concrete pads shall consist of **four (4) inches** of reinforced concrete or **six (6) inches** of concrete. A concrete footing is optional. All piers and footings for immobilized manufactured homes shall comply with this Code. Expandable units shall be provided with approved piers or their equivalent at each corner of the units.

23-2-5 **LIMIT OF UNITS.** There shall be **only one (1)** immobilized manufactured home per lot in the City.

[NOTE: See Chapter 40 Zoning Code for modular homes.]

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, if any.

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 **four thousand (4,000) square feet**, with a minimum frontage as specified in the Zoning Code.

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 use has been approved for that purpose by the City Council.

23-3-19 - 23-3-20 RESERVED.

DIVISION IV - FEES

23-3-21 LICENSE FEE. The annual license fee per manufactured home park shall be **One Hundred Dollars (\$100.00)**, and shall be due and payable **on or before May 1st of each year.** The City Clerk shall notify the owner or operator of the annual fee at least **thirty (30) days** prior to **May 1st.**

(Execute in Duplicate)

Application No. _____

APPLICATION FOR MANUFACTURED HOME OCCUPANCY PERMIT

Zoning Administration
550 N. Broad St.
Carlinville, Illinois

Application No. _____

DATE: _____, ____

(DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY)

DATE: _____, ____ PERM. PARCEL _____

- Permit Issued
- Permit Denied
- Application Appealed

Fee Paid to City Clerk:
\$ _____ DATE: _____, ____

IF DENIED, CAUSE OF DENIAL:

INSTRUCTIONS TO APPLICANT: All information required by the application must be completed and submitted herewith. Applicants are encouraged to visit the City Hall for any assistance needed in completing this form.

1. Name of Owner(s): _____
(Attach additional sheets if necessary)
Address: _____ PHONE: _____
(ZIP CODE)
2. Applicant's Name: _____ PHONE: _____
Address: _____
(ZIP CODE)
3. Property interest of applicant: _____
(Contract Purchaser, Etc.)
4. Address of proposed construction or mobile home: _____
5. Legal Description (Lot, Block, and Subdivision; attach metes and bounds description, if necessary).

6. Cost of Improvement: \$ _____ Square feet of Improvement ____
Proposed construction (check one or more, as necessary):
 New Building Type: _____ Brick/Frame Number of Rooms _____
 Alterations or additions to existing buildings (explain): _____
7. Use of existing and proposed structures (if applicable):
Existing Use: _____
Proposed Use: _____
8. Two (2) copies of a sketch plat (drawn to approximate scale shall be attached, showing the following:
 - a) Dimensions and use of all buildings;
 - b) Dimensions of lot;
 - c) Distance of each building from lot lines;
 - d) Distance of principal building from principal buildings on adjacent lot(s);
 - e) Distance between accessory buildings and principal buildings;
 - f) Distance from lot line to center line of abutting street(s);
 - g) Location [with dimensions] of driveways and off-street parking spaces;
 - h) Location of all easements;
 - i) Location of all underground utilities, including septic tanks, tile fields, and wells.

9. Application is hereby made for an Occupancy Permit as required under the City Code for the erection, moving, or alteration and use of buildings and mobile homes. In making this application, the applicant represents all of the above statements and any attached maps and drawings to be a true description of the proposed new or altered uses and/or buildings. The applicant agrees that the permit applied for, if granted, is issued on the representations made herein and that any permit issued may be revoked without notice on any breach of representation or conditions. **(See Chapter 40)**

It is understood that any permit issued on this application will not grant right of privilege to erect any structure or to use any premises described for any purpose or in any manner prohibited by the City Code, or by other ordinances, codes, or regulations of the City.

APPLICANT: _____

CERTIFICATE OF OCCUPANCY

The plans and specifications submitted with this Application are in conformity with the district requirements applicable to the subject property. Changes in plans or specifications shall not be made without written approval of the City Council.

Failure to comply with the above shall constitute a violation of the provisions of the **Revised Code of Ordinances of the City.**

DATE: _____

BUILDING OFFICIAL

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.

ARTICLE II - GENERAL REGULATIONS

24-2-1 **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, Auxiliary Police and Marshals assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(625 ILCS 5/11-203)**

24-2-2 **SCENE OF FIRE.** The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

24-2-3 **SIGNS AND SIGNALS.** It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois **State Manual of Uniform Traffic Control Devices for Streets and Highways**. **(625 ILCS 5/11-301)**

24-2-4 **UNAUTHORIZED SIGNS.** No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any

railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

24-2-5 **INTERFERENCE WITH SIGNS OR SIGNALS.** It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

24-2-6 **ADVERTISING SIGNS.** It shall be unlawful to maintain anywhere in the City any sign, signal, marking or device other than a traffic sign or signal authorized by the City Council or the Illinois State Department of Public Works and Buildings, 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 Chapter 27 and 33) (Also See Chapter 40 - Zoning Code)**

24-2-7 **ANIMALS OR BICYCLES.** Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(625 ILCS 5/11-206)**

24-2-8 **LAMPS AND OTHER EQUIPMENT ON BICYCLES.**

(A) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least **five hundred (500) feet** to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances of **one hundred (100) feet** to **six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of **five hundred (500) feet** to the rear may be used in addition to the red reflector.

(B) A bicycle shall not be equipped with, nor shall any person use any siren upon a bicycle.

(C) Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.

(D) No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector or conforming to specifications prescribed by the State on each pedal, visible from the front and rear of the bicycle during darkness from a distance of **two hundred (200) feet.**

(E) No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of **five hundred (500) feet** and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall

be at least **three-sixteenths of an inch (3/16")** wide on each side of each tire or rim to indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim. Such reflectors shall conform to specifications prescribed by the State.

(F) No person shall sell or offer for sale a new bicycle that is not equipped with an essentially colorless front-facing reflector.

[See Section 1-1-20 for penalty.]

ARTICLE III - STOP AND THROUGH STREETS

24-3-1 **THROUGH STREETS.** The streets and parts of streets of the City designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. **See Schedule "A" for applicable through and stop streets.**

24-3-2 **ONE-WAY STREETS OR ALLEYS.** It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. **See Schedule "B" for the designated one-way streets and alleys. (625 ILCS 5/11-208)**

24-3-3 **STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. **See Schedule "A" for designated stop intersections. (625 ILCS 5/11-302)**

24-3-4 **YIELD RIGHT-OF-WAY STREETS.** The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **(See Schedule "C")**

24-3-5 **POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(625 ILCS 5/11-304)**

ARTICLE IV - DRIVING RULES

24-4-1 **ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 11, entitled "Rules of the Road"**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City except for the following changes, deletions and omissions:

- (A) **Omissions:**
- (1) Omit Sections 11-207, 11-208.1, 11-208.2, 11-209.1, 11-302, 11-303, 11-310(f), 11-313, 11-401 to and including 11-416, 11-500 to and including 11-502, 11-602, 11-603, 11-604, 11-606(b), 11-608, 11-1419, and 11-1422.
- (B) **Changes and Additions:**
- (1) Change 11-904(a) to read: "Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized by this Code."
 - (2) Change 11-1416(a) to read: "Any person who shall willfully and unnecessarily attempt to delay, hinder or obstruct any other person in lawfully driving and traveling upon or along any highway within this State or who shall offer for barter or sale, merchandise on said highway so as to interfere with the effective movement of traffic shall, upon conviction, be guilty of a violation of this Code."

24-4-2 **DRIVING RULES.**

(A) **Careless Driving.** It shall be unlawful to operate a vehicle in the City in a careless manner so as to interfere with the safe or lawful operation of any other vehicle or so as to interfere with or to injure, damage, or endanger persons or property engaged in the lawful use of the street.

(B) **Drag Racing Unlawful.** No person shall be a participant in drag racing as defined in **Section 5/11-504 of the Illinois Compiled Statutes.**

(C) **Fleeing or Attempting to Elude Police Officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D) **Unlawful Possession of Highway Sign or Marker.** The Department of Local Authorities with reference to traffic-control signals, signs or markers owned by the Department of Local Authorities are authorized to indicate the ownership of such signs, signals or markers on the back of such devices in letters not less than **three-eighths of an inch (3/8")** or more than **three-fourths of an inch (3/4")** in height, by use of a metal stamp, etching or other permanent means and except for employees of the Department of Local Authorities, police officers, contractors and their employees engaged in highway construction, contract or work on the highway approved by the Department of Local Authorities, it is a

violation of this Chapter for any person to possess such sign, signal or marker so identified. **(625 ILCS 5/11-313)**

(E) **Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this Section, proof of the determination of the maximum speed by the City and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(625 ILCS 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the City Council, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **(See Schedule "D") (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. **(See 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 DRIVING.** No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED.

The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12, entitled "Equipment of Vehicles"**, as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City. **(625 ILCS 5/12-605, 5/12-605.1; and 5/12-605.2)**

24-5-2 MUFFLER. No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(625 ILCS 5/12-602)**

24-5-3 USE OF BLUE LIGHTS. The use of blue oscillating, rotating or flashing lights, whether lighted or unlighted, by the operator of a vehicle is prohibited except as permitted by this Code or Illinois law. **(Ord. No. 1673; 08-20-12)**

24-5-4 USE BY FIRE DEPARTMENT. Volunteer firefighters, responding to a paid fire call, may operate a vehicle with the blue oscillating, rotating or flashing lights when responding to a bona fide emergency or when parked or stationed at the scene of a fire. Such lights shall not be used, except under the circumstances described above. Any volunteer fireman shall abide by all traffic laws, rules and regulations while such blue lights are in use. Any person using such blue lights in accordance with the Code must carry on their person an identification card or letter identifying them as a bona fide member of the fire department. This card or letter must including the following: the name of the Fire Department, being the Carlinville Fire Department; the member's position within the Fire Department; the member's term of service in the Fire Department; the name of the person within the Fire Department to contact to certify the information provided. **(Ord. No. 1673; 085-20-12)**

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 OR REPAIR.** 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.

24-6-3 **STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.**

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

- (1) **Stop, Stand or Park a Vehicle:**
 - (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (b) On a sidewalk.
 - (c) Within an intersection.
 - (d) On a crosswalk.
 - (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
 - (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
 - (h) On any railroad tracks.
 - (i) At any place where official signs prohibit stopping.
 - (j) On any controlled-access highway.
 - (k) In the area between roadways of a divided highway, including crossovers.
 - (l) In any alley that is open and maintained.
- (2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):
 - (a) In front of a public or private driveway.
 - (b) Within **fifteen (15) feet** of a fire hydrant.
 - (c) Within **twenty (20) feet** of a crosswalk at an intersection.
 - (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.

- (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).
 - (f) At any place where official signs prohibit standing or parking.
 - (3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):
 - (a) within **fifty (50) feet** of the nearest rail of a railroad crossing;
 - (b) at any place where official signs prohibit parking;
 - (c) in yellow zones.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
- (C) Schedules "F", "G" and "H" shall list all applicable special parking restrictions and 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)**

24-6-4 PARKING FOR THE HANDICAPPED.

(A) **Designated Parking.** Certain parking spaces within the confines of the City shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.

(B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the City.

(C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(625 ILCS 5/11-1301.2)**

(D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency or a City Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes.** The registered owner of the vehicle as ascertained by the

registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **Two Hundred Dollars (\$200.00)**. The same registered owner will be held liable for the cost of removal of the vehicle and must pay that cost, plus storage charges, if any, prior to the release of the vehicle. **(625 ILCS 5/11-1301.3(C))**

(E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "I"**.

24-6-5 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).

24-6-6 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 **Thirty Dollars (\$30.00)** for each such offense, provided that if said amount is not paid within **ten (10) days** of the date of the violation, then the amount of the fine shall be increased to **Sixty Dollars (\$60.00)**. 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 **forty-eight (48) hours**; provided, however, that this Section shall not apply to persons parking a vehicle so as to obstruct the entrance or 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. **(Ord. No. 1753; 05-18-15)**

24-6-7 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.

24-6-8 PARKING TICKETS - STATE STATUTE. The City Council intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

**ARTICLE VII – ABANDONED, LOST, STOLEN OR
UNCLAIMED VEHICLES**

24-7-1 ABANDONMENT OF VEHICLES PROHIBITED.

(A) The abandonment of a vehicle or any part thereof on any highway in this City is unlawful and subject to penalties as set forth under **Section 1-1-20** of this Code.

(B) The abandonment of a vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this City is unlawful except on property of the owner or bailee of such abandoned vehicle. A vehicle or any part thereof so abandoned on private property shall be authorized for removal, by the City, after a waiting period of **seven (7) days** or more, or may be removed immediately if determined to be a hazardous dilapidated motor vehicle under Section 5/11-40-3.1 of the Illinois Municipal Code. A violation of subsections (A) or (B) of this Section is subject to penalties as set forth under **Section 1-1-20** of this Code.

(C) A towing service may begin to process an unclaimed vehicle as abandoned by requesting a record search by the Secretary of State up to **ten (10) days** after the date of the tow, or any later date acceptable to the Secretary of State. This paragraph shall not apply to vehicles towed by order or authorization of the City or a law enforcement agency. **(625 ILCS 5/4-201)**

24-7-2 ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLE NOTIFICATION TO LAW ENFORCEMENT AGENCIES. When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person in this City, not the owner of the vehicle, such person shall immediately notify the municipal police when the vehicle is within the corporate limits of any City having a duly authorized police department, or the State Police or the county sheriff when the vehicle is outside the corporate limits of the City. Upon receipt of such notification, the municipal police will authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow as set forth in **625 ILCS 5/4-204** for law enforcement agencies, until the vehicle is claimed by the owner or any other person legally entitled to possession thereof or until it is disposed of as provided in this Code. **(625 ILCS 5/4-202)**

24-7-3 REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES; TOWING OR HAULING AWAY.

(A) When a vehicle is abandoned on a highway in an urban district **ten (10) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(B) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for **twenty-four (24) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(C) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the

highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

24-7-4 POLICE TOWS; REPORTS, RELEASE OF VEHICLES, PAYMENT.

When a vehicle is authorized to be towed away as provided in **Section 24-7-2** or **24-7-3**:

(A) The authorization, any hold order, and any release shall be in writing, or confirmed in writing, with a copy given to the towing service.

(B) The police headquarters or office of the law officer authorizing the towing shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, Vehicle Identification Number, license plate year and number and registration sticker year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow.

(C) The owner, operator, or other legally entitled person shall be responsible to the towing service for payment of applicable removal, towing, storage, and processing charges and collection costs associated with a vehicle towed or held under order or authorization of the law enforcement agency. If a vehicle towed or held under order or authorization of a law enforcement agency is seized by the ordering or authorizing agency or any other law enforcement or governmental agency and sold, any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the proceeds of the sale. If applicable law provides that the proceeds are to be paid into the treasury of the appropriate civil jurisdiction, then any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the treasury of the civil jurisdiction. That payment shall not, however, exceed the amount of proceeds from the sale, with the balance to be paid by the owner, operator, or other legally entitled person.

(D) Upon delivery of a written release order to the towing service, a vehicle subject to a hold order shall be released to the owner, operator, or other legally entitled person upon proof of ownership or other entitlement and upon payment of applicable removal, towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-204)**

24-7-5 RECORD SEARCHES FOR UNKNOWN OWNER.

(A) When a law enforcement agency authorizing the impounding of a vehicle does not know the identity of the registered owner, lienholder or other legally entitled person, that law enforcement agency will cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State for the purpose of obtaining the required ownership information.

(B) The law enforcement agency authorizing the impounding of a vehicle will cause the stolen motor vehicle files of the State Police to be searched by a directed communication to the State Police for stolen or wanted information on the vehicle. When the State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the State Police. The information determined from these record searches will be returned to the requesting law enforcement agency for that agency's use in sending a notification by certified mail to the registered owner, lienholder and other legally entitled persons advising where the vehicle is held, requesting a disposition be made and setting forth public sale information. Notification shall be sent no later than **ten (10) business days** after the date the law enforcement agency impounds or authorizes the impounding of a vehicle, provided that if the law enforcement agency is unable

to determine the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle within a **ten (10) business day period** after impoundment, then notification shall be sent no later than **two (2) days** after the date the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle is determined. Exceptions to a notification by certified mail to the registered owner, lienholder and other legally entitled persons are set forth in **625 ILCS 5/4-209**.

(C) When ownership information is needed for a towing service to give notification as required under this Code, the towing service may cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State.

The written request of a towing service, in the form and containing the information prescribed by the Secretary of State by rule, may be transmitted to the Secretary of State in person, by U.S. Mail or other delivery service, by facsimile transmission, or by other means the Secretary of State deems acceptable.

The Secretary of State shall provide the required information, or a statement that the information was not found in the vehicle registration records of the State, by U.S. Mail or other delivery service, facsimile transmission, as requested by the towing service, or by other means acceptable to the Secretary of State.

(D) The Secretary of State may prescribe standards and procedures for submission of requests for record searches and replies via computer link.

(E) Fees for services provided under this Section shall be in amounts prescribed by the Secretary of State under Section 3-821.1 of the Illinois Municipal Code. Payment may be made by the towing service using cash, any commonly accepted credit card, or any other means of payment deemed acceptable by the Secretary of State. **(625 ILCS 5/4-205)**

24-7-6 IDENTIFYING AND TRACING OF VEHICLE. When the registered owner, lienholder or other person legally entitled to the possession of a vehicle cannot be identified from the registration files of this State or from the registration files of a foreign state, if applicable, the law enforcement agency having custody of the vehicle shall notify the State Police, for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. The information obtained by the State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification purposes as set forth in **Section 24-7-5** of this Code. **(625 ILCS 5/4-206)**

24-7-7 RECLAIMED VEHICLES: EXPENSES.

(A) Any time before a vehicle is sold at public sale or disposed of as provided in **Section 24-7-8**, the owner, lienholder or other person legally entitled to its possession may reclaim the vehicle by presenting to the law enforcement agency having custody of the vehicle proof of ownership or proof of the right to possession of the vehicle.

(B) No vehicle shall be released to the owner, lienholder, or other person under this Section until all towing, storage, and processing charges have been paid. **(625 ILCS 5/4-207)**

24-7-8 DISPOSAL OF UNCLAIMED VEHICLE.

(A) When an abandoned, lost, stolen or unclaimed vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder or other legally entitled

person for a period of **thirty (30) days** after notice has been given as provided in **Sections 24-7-5** and **24-7-6** of this Article, the law enforcement agency or towing service having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automotive parts recycler, rebuilder or scrap processor under **Article 5 of Chapter 625 of the Illinois Compiled Statutes** or the towing operator which towed the vehicle. Notice of the time and place of the sale shall be posted in a conspicuous place for at least **ten (10) days** prior to the sale on the premises where the vehicle has been impounded. At least **ten (10) days** prior to the sale, the law enforcement agency where the vehicle is impounded, or the towing service where the vehicle is impounded, shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner, lienholder, or other legally entitled persons. Notice as provided in **Sections 24-7-5** and **24-7-6** of this Article as provided in this Section shall state the time and place of sale and shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled persons to reclaim the vehicle.

(B) If an abandoned, lost, stolen, or unclaimed vehicle displays dealer plates, notice under this Section and **Section 24-7-9** of this Code shall be sent to both the dealer and the registered owner, lienholder, or other legally entitled persons.

(C) In those instances where the certified notification specified in **Section 24-97-5** and **24-7-6** of this Article has been returned by the postal authorities to the law enforcement agency or towing service, the sending of a second certified notice will not be required. **(625 ILCS 5/4-208)**

24-7-9 DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE.

(A) **New Car.** When the identity of the registered owner, lienholder, or other person legally entitled persons of an abandoned, lost, or unclaimed vehicle of **seven (7) years** of age or newer cannot be determined by any means provided for in this Article, the vehicle may be sold as provided for in **Section 24-7-8** without notice to any person whose identity cannot be determined.

(B) **Old Car.** When an abandoned vehicle of more than **seven (7) years** of age is impounded as specified by this Article, or when any such vehicle is towed at the request or with the consent of the owner or operator and is subsequently abandoned, it will be kept in custody or storage for a minimum of **ten (10) days** for the purpose of determining the identity of the registered owner, lienholder, or other legally entitled persons and contacting the registered owner, lienholder, or other legally entitled persons by the U.S. Mail, public service or in person for a determination of disposition; and an examination of the State Police stolen vehicle files for theft and wanted information. At the expiration of the **ten (10) day** period, without the benefit of disposition information being received from the registered owner, lienholder, or other legally entitled persons, the vehicle may be disposed of in either of the following ways:

- (1) The law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk or salvage.
- (2) The towing service may sell the vehicle in the manner provided in **Section 24-7-8** of this Article, provided that the paragraph shall not apply to vehicles towed by order or authorization of a law enforcement agency.

(C) **Antique Vehicle.** A vehicle classified as an antique vehicle, custom vehicle, or street rod may, however, be sold to a person desiring to restore it. **(625 ILCS Sec. 5/4-209)**

24-7-10 DISPOSAL OF HAZARDOUS DILAPIDATED MOTOR VEHICLES.

Any hazardous dilapidated motor vehicle impounded pursuant to the provisions of this Article and **65 ILCS 5/11-40-3.1**, whether impounded at a public facility or on the property of private towing service, shall be kept in custody for a period of **ten (10) days** for the purpose of determining the identity of the registered owner or lienholder and contacting such owner or lienholder, if known, by regular U.S. Mail. At the expiration of the **ten (10) day** period, without benefit of disposition information being received from the registered owner or lienholder, the law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk. **(65 ILCS 5/4-209.1)**

24-7-11 COLLECTION OF UNPAID CHARGES. In an action to collect towing, storage, and processing charges that remain unpaid after disposition of a vehicle towed or relocated under this Code, the towing service may recover reasonable collection costs.

24-7-12 POLICE RECORD FOR DISPOSED VEHICLE. When a vehicle in the custody of the City or law enforcement agency is reclaimed by the registered owner, lienholder or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Article, a report of the transaction will be maintained by that law enforcement agency for a period of **one (1) year** from the date of the sale or disposal. **(625 ILCS 5/4-210)**

24-7-13 PUBLIC SALE PROCEEDS; DISPOSITION OF.

(A) When a vehicle located within the corporate limits is authorized to be towed away by a law enforcement agency having jurisdiction and disposed of as set forth in this Article, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the treasury of the City.

(B) The provisions of this Section shall not apply to vehicles disposed of or sold at public sale under subsection (k) of **625 ILCS 5/4-107** of the Illinois Vehicle Code. **(625 ILCS 5/4-211)**

24-7-14 LIABILITY OF LAW ENFORCEMENT OFFICERS.

(A) A law enforcement officer or agency, a department of municipal government designated under **625 ILCS 5/4-212.1** or its officers or employees, or a towing service owner, operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Article.

(B) A towing service, and any of its officers or employees, that removes or tows a vehicle as a result of being directed to do so by a law enforcement officer or agency or a department of municipal government or its officers or employees shall not be held to answer or be liable for injury to, loss of, or damages to any real or personal property that occurs in the course of the removal or towing of a vehicle or its contents on a limited access highway in a designated Incident Management Program that uses fast lane clearance techniques as defined by the Department of Transportation. **(625 ILCS 5/4-213)**

24-7-15 VIOLATIONS OF ARTICLE.

(A) Any person who violates **Section 24-7-1** of this Article or who aids and abets in that violation:

- (1) shall be subject to a mandatory fine of **Two Hundred Dollars (\$200.00)**; and
- (2) shall be required by the court to make a disposition on the abandoned or unclaimed vehicle and pay all towing, storage, and processing charges and collection costs pursuant to **Section 24-7-3(A) and (E)**.

(B) When a vehicle is abandoned, it shall be presumed that the last registered owner is responsible for the abandonment and shall be liable for all towing, storage, and processing charges and collection costs, less any amounts realized in the disposal of the vehicle. The last registered owner's liability for storage fees may not exceed a maximum of **thirty (30) days'** storage fees.

The presumption established under this paragraph may be rebutted by a showing that, prior to the time of the tow:

- (1) a report of vehicle theft was filed with respect to the vehicle; or
- (2) the vehicle was sold or transferred and the last registered owner provides the towing service with the correct identity and address of the new owner at the time of the sale or transfer.

If the presumption established under this Section is rebutted, the person responsible for theft of the vehicle or to whom the vehicle was sold or transferred is liable for all towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-214)**

[See Section 1-1-20 for penalty.]

ARTICLE VIII - LOAD LIMITS

24-8-1 PARKING HOURS. No truck, tractor, trailer, semi-trailer or other equipment whose total gross weight when loaded to the maximum capacity or the maximum allowable by law exceeds **eight thousand (8,000) pounds** capacity whether such vehicle is loaded during the time hereinafter specified or not, shall be parked or located on any City street or other public property adjacent to any street or public way between the hours of **six o'clock (6:00) P.M.** and **seven o'clock (7:00) A.M.** except when in the actual process of loading or unloading. In any case, where a motor vehicle is required by law to be licensed, the gross weight shall, for the purpose of this Article, be the maximum gross weight in pounds including vehicle and maximum load as allowed by the license which the vehicle bears. **(Ord. No. 952; 11-19-79)**

24-8-2 TRAVELING ON CERTAIN STREETS. It shall be unlawful for any motor vehicle of any type or character having an overall gross weight of more than **sixteen thousand (16,000) pounds** to travel over and upon the following described streets in Schedule "K" unless permission to do so, in writing, shall have been first obtained from the Mayor.

24-8-3 TEN THOUSAND (10,000) POUND WEIGHT LIMIT. It shall be unlawful for any motor vehicle of any type or character having an overall gross weight of **ten thousand (10,000) pounds** to travel over and upon the streets specified in Schedule "M".

24-8-4 SIX THOUSAND (6,000) POUND WEIGHT LIMIT. The load limit in Loveless Park shall be **six thousand (6,000) pounds**. It shall be unlawful for any car, truck or other vehicle, loaded or unloaded, weighing in excess of **six thousand (6,000) pounds** to drive or travel upon the said roadways and/or parking areas in Loveless Park, provided that this said weight limitation shall not apply to buses hauling people or picking up people or trucks making deliveries or picking up items to be hauled away.

24-8-5 FIVE THOUSAND (5,000) POUND WEIGHT LIMIT. There is hereby imposed a load and weight limit on the bridge which is located on the Old Water Works Road, owned by the City and located south of Carlinville. That said weight and load limit shall not exceed **five thousand (5,000) pounds.** **(Ord. No. 844; 08-05-74)**

24-8-6 LOADING; UNLOADING TRUCKS; BUSES. It shall be unlawful to park trucks or buses, including for the carrying of passengers, (excepting panel or pickup trucks up to **three-quarter (3/4) ton** capacity) on the Public Square in the City. However, buses carrying passengers have a right to stop for the purpose of loading and unloading passengers at such places on the Public Square as may be designated by the Illinois Department of Transportation or by the City. Trucks carrying merchandise shall have a right to stop on the Public Square for a period of time long enough to load or unload the said truck, providing a driver shall remain upon or about the said truck while it is so stopped and such truck shall only remain stopped for a reasonable time. **(Ord. No. 5-3-48)**

24-8-7 OVERWEIGHT VEHICLES.

(A) It shall be unlawful to drive any motor vehicle with a size or weight, including load, in excess of which is permitted by the Illinois Vehicle Code, specifically **625 ILCS 5/15-102** (width), **15-103** (height), **15-107** (length) and **15-111** (weight), when operating on any highways owned and maintained by the City, unless a permit has been issued in accordance with the permit process described herein, as granted by the authority of **625 ILCS 5/15-301(a)**.

(B) The Chief of Police or his designee may issue a special permit authorizing the owner, operator or lessee of an oversize or overweight vehicle or combination of vehicles, to operate on any highway owned and maintained by the City, with a fee in the following amounts:

- (1) **Overweight Vehicles (includes any over-dimension).**

Single Trip (5 days):	\$50.00
Round Trip (10 days):	\$80.00
Quarterly (90 days):	\$200.00
- (2) **Oversize Only Vehicles.**

Single Trip (5 days):	\$25.00
Round Trip (10 days):	\$40.00
Quarterly (90 days):	\$100.00

For purposes of this Section, a "single trip" is defined as one movement of an oversize or overweight vehicle or load. A "round trip" is defined as one movement of an oversize or overweight vehicle or load, and a return trip of the same vehicle or load. "Quarterly" permits are to be considered limited continuous operation of the same oversize or overweight vehicle with interchangeable loads.

(C) Applications for permits shall be submitted in the method and form required by the Chief of Police or his designee and shall include at a minimum:

- (1) The type of vehicle;
- (2) The weights and dimensions of the vehicle(s);
- (3) The description of the load;
- (4) The requested route to be taken by the vehicle;
- (5) The destination of the vehicle within the City; and
- (6) The name of the carrier, if different than the applicant.

(D) Upon receipt of a completed application and proof of payment of the fee, the Chief of Police or designee may issue a permit, subject to the following conditions:

- (1) In consideration of seasonal or other time limitations, the Chief of Police or designee may restrict the number or time of daily trips authorized by each permit, as is consistent with the public safety;
- (2) In establishing the routes to be traveled, the Chief of Police or designee may establish the route consistent with public safety, taking into consideration existing traffic, the character of the road or roads and the configuration of the terrain;
- (3) All permits shall be nontransferable and shall be valid only for the applicant or his agent or employee and the specific vehicle listed on the application;
- (4) Every permit shall be carried in the vehicle in paper or electronic form to which it refers and shall be open to inspection by any police officer, or agent of the City;
- (5) No refunds of the permit fee shall be made to the applicant following the issuance of a permit;
- (6) The applicant shall comply with all township, City, county, and state statutes, ordinances, regulations, rules and requirements;
- (7) Altering or falsifying a permit will revoke the applicant's permit privileges for **twelve (12) months**;
- (8) The Chief of Police or his designee is authorized to create and amend reasonable provisions for permits.

(E) Permits are only valid for the dates and times specified, must be carried in the permitted vehicle in either paper or electronic form.

(F) Any person or entity found to be in violation of this Section shall be subject to a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)**.

(Ord. No. 1838; 08-01-22)

ARTICLE IX - MUNICIPAL DEPOT PARKING LOT

24-9-1 **RULES; REGULATIONS.** Persons authorized by the Council may establish parking areas upon the Municipal Depot Parking Lot, erect signs and make reasonable charges for parking thereon. After the marking of said parking area by authorized personnel of the City, it shall be unlawful to park any vehicle or to permit a vehicle to remain parked in any parking zone for a longer period than designated on the sign erected thereon, and it shall be unlawful for any person to park in the parking stall of another person, who has paid the City for said parking privilege, that person being entitled to said parking rights without interference.

It is unlawful to park a vehicle in any parking zone within said Municipal parking area without paying the fee designated by the Council.

24-9-2 **PARKING LINES; MARKING ESTABLISHED.** Each vehicle parking within any parking zone shall park within the line or marking so established. It shall be unlawful to park any vehicle across any such line or marking and to park said vehicle in such position that the same shall not be entirely within the area designated by such lines or markings.

24-9-3 **DESTRUCTION OF PROPERTY; MARKINGS.** It shall be unlawful for any person not authorized by the Council to deface, tamper, injure, break, destroy or impair the usefulness of any signs, markings, designations to be found on said Municipal parking area, having been placed there by authorized personnel of the City.

24-9-4 **OBSTRUCTING ENTRANCE.** No person shall park a vehicle so as to obstruct the entrance or exit of traffic into and from the Municipal parking lot.

24-9-5 **UNAUTHORIZED SIGN, MARKING.** No person shall place or maintain any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official sign or signal or marking for the control of traffic and/or parking upon said municipal parking area. **(Ord. No. 1-3-61)**

24-9-6 **TWENTY-FOUR (24) HOUR PARKING.**
(A) No owner or operator of a vehicle shall stop, stand or park a vehicle for more than **twenty-four (24) consecutive hours** in the Municipal Depot parking lot, which is located at the southeast corner of the intersection of North West Street and West First North Street in Carlinville.

(B) The Carlinville Police Department and all members thereof assigned to traffic duty, are hereby authorized to remove and tow away, and have removed or towed away by commercial towing service any vehicle stopping, standing or parking in violation of this Section.

(C) The vehicle so towed away shall be restored to the owner or operator of such vehicle upon the payment of a fee of **Twenty-Five Dollars (\$25.00)** plus towing charges within **twenty-four (24) hours** after the time the vehicle was removed, plus any storage charges incurred in connection therewith for each additional **twenty-four (24) hours** or fraction thereof. **(Ord. No. 1553; 10-01-07)**

ARTICLE X – GOLF CARTS, NEIGHBORHOOD VEHICLES AND UTILITY TASK VEHICLES

24-10-1 DEFINITIONS.

(A) **City Streets.** Only those City streets designated on **Exhibit "B"** attached to the ordinance codified herein and incorporated herein by reference, located within the boundaries of the City.

(B) **County Roads.** Include any roads outside the boundaries of the City limits.

(C) **Golf Cart.** A vehicle specifically designed and intended for the purposes of transporting one or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course. **(625 ILCS 5/1-123.9)**

(D) **Neighborhood Vehicle.** A self-propelled, electronically powered **four (4)** wheeled vehicle; or a self-propelled, gasoline powered, **four (4)** wheeled vehicle with an engine displacement under **one thousand two hundred (1,200) cubic centimeters**; which is capable of attaining in **one (1) mile** a speed of more than **twenty (20) miles per hour**, but not more than **twenty-five (25) miles per hour**, and which conforms to federal regulations under title 49 CFR part 571.500.

(E) **Utility Task (Side by Side) Vehicle (UTV).** A self-propelled, electronically powered **four (4)** wheeled vehicle; or a self-propelled, gasoline powered **four (4)** wheeled motor vehicle with bench or bucket seats, an engine displacement under **one thousand two hundred (1,200) cubic centimeters** which is capable of attaining in **one (1) mile** a speed of more than **twenty (20) miles per hour**, but not more than **fifty (50) miles per hour**, which is steered and maneuvered with a steering wheel.

(F) **State Roads.** Includes Illinois Route 4 and 108.

24-10-2 OPERATION ON STREETS.

(A) It shall be lawful for a qualified person to operate a golf cart, neighborhood vehicle and Utility Task Vehicle (UTV) on designated streets within the City, subject to the provisions of this Article.

(B) It shall be unlawful for any person to operate a golf cart, neighborhood vehicle and Utility Task Vehicle (UTV) on any street in the City, unless:

- (1) The driver is at least **twenty-one (21) years of age** and has a valid driver's license, and
- (2) The vehicle is properly titled with the Illinois Secretary of State, if required, and
- (3) Has the minimum required liability insurance as set out in **65 ILCS 5/7-601 et seq.**, and maintains proof of said insurance specifically for the golf cart, neighborhood vehicle and Utility Task Vehicle (UTV) to be operated on City streets within the permitted vehicle, and
- (4) Has been properly registered with the City and must display such registration as required in **Section 24-10-3** of this Article, and
- (5) Has the following required, operable equipment:
 - (a) Brakes.
 - (b) Steering wheel apparatus.
 - (c) Tires.
 - (d) A driver's side outside mirror and either an interior rearview mirror or a passenger side outside mirror.
 - (e) Red reflector warning devices in the front and rear.
 - (f) A slow moving emblem on the rear of the vehicle.

- (g) A headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front, illuminated at all times when operated on City streets.
- (h) A tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear, illuminated at all times when operated on City streets.
- (i) At least **two (2)** brake lights which emit a red light visible from a distance of **one hundred (100) feet** from the rear.
- (j) Turn signals mounted to the front and rear of the vehicle.
- (k) Seat belts for each seat.
- (l) Windshield.
- (m) Horn which is audible from a distance of **two hundred (200) feet**.

(C) All persons eligible to operate a golf cart, neighborhood vehicle and Utility Task Vehicle on designated streets of the City must comply with the following requirements:

- (1) Must not exceed **twenty-five (25) miles per hour**.
- (2) Shall only be operated from sunrise until sunset.
- (3) Shall not be operated in inclement weather, nor when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of **five hundred (500) feet**.
- (4) Each driver and passenger of a golf cart, neighborhood vehicle and Utility Task Vehicle shall wear a properly fastened and adjusted seat safety belt. Children must be secured in a child restraint system as required pursuant to the child passenger protection act.
- (5) A person who drives or is in actual physical control of a golf cart, neighborhood vehicle and Utility Task Vehicle on a roadway while under the influence of alcohol or drugs is subject to **625 ILCS 11-500 through 11-502**.
- (6) Golf carts, neighborhood vehicles and Utility Task Vehicles may not be operated on sidewalks or other public property not accessible to or authorized to vehicular traffic.
- (7) Golf carts, neighborhood vehicles and Utility Task Vehicles may not be operated on streets, highways and roads under the jurisdiction of the Illinois Department of Transportation (Illinois Route 4 and 108) or the County Highway Department.
- (8) Golf carts, neighborhood vehicles and Utility Task Vehicles may not be operated on City streets with a posted speed limit in excess of **thirty (30) miles per hour**.
- (9) Nothing in this Article shall permit the use of recreational off-highway vehicles as defined and provided in **625 ILCS 5/1-168.8** or all-terrain vehicles, off-highway motorcycles and any other vehicle which is not described within the foregoing definitions of "golf carts", or "neighborhood vehicles" or "Utility Task Vehicle".

24-10-3 REGISTRATION OF GOLF CARTS, NEIGHBORHOOD VEHICLES AND UTILITY TASK VEHICLES.

(A) **Permit.** A permit shall be issued within **seven (7) days** upon the approval of an application from an owner of a golf cart, neighborhood vehicle and Utility Task Vehicle to operate a golf cart, neighborhood vehicle and Utility Task Vehicle upon the streets and roadways within the jurisdiction of the City, except where expressly prohibited.

(B) **Application.** Any person requesting a permit shall submit to the Police Department on a form supplied by the City which shall contain, at a minimum, the following:

- (1) An application which contains the owner's name, address, phone number, driver's license number, vehicle identification number (VIN), make and model of vehicle.
- (2) Proof of valid insurance information, which meets the requirements of **625 ILCS 5/7-601 et seq.**, specifically for the golf cart, neighborhood vehicle and Utility Task Vehicle to be operated on City streets.
- (3) Signed and notarized waiver of liability by applicant releasing the City from any and all future claims resulting from the operation of their golf cart, neighborhood vehicle and Utility Task Vehicle pursuant to this Chapter or any other ordinance of the City.
- (4) Present the vehicle for physical inspection to ensure that the vehicle is safe to operate on City streets and is in compliance with the requirements of this Article. A golf cart, neighborhood vehicle and Utility Task Vehicle will be allowed to be driven to the Police Department to have the vehicle inspected and permitted, if the requester has called ahead and arranged with the Chief of Police (or designee) a specific meeting time.
- (5) Any handicapped applicant must submit a certificate signed by a physician that he or she is a handicapped applicant and is able to safely operate a motorized golf cart, neighborhood vehicle and Utility Task Vehicle on the roadways designated. Upon issuance, said permit shall be displayed on the front and rear of the vehicle as may be administratively required by the City.

(C) **Fee.** An annual registration and permit fee of **Twenty-Five Dollars (\$25.00)** for applicants age **sixty-five (65)** or older and **Fifty Dollars (\$50.00)** per year for all other applicants shall be submitted at the time of the application for the permit, and subject to renewal thereafter.

(D) **Permit Renewal.** A permit shall be valid for a period of **one (1) year** and may be renewed upon application of the owner, in compliance with paragraph (B) of this Section.

(E) **Transferability.** A permit is nontransferable.

(F) **Change of Contact Information.** It shall be the duty of the permit holder to inform the Police Department of any change of address, phone number, or insurance coverage, within **ten (10) business days** of such change.

(G) **Denial of Permit.** A permit shall be denied only for the following reasons:

- (1) The vehicle is not properly titled with the Illinois Secretary of State, if required,
- (2) The insurance information for the vehicle cannot be verified,
- (3) The registered owner does not have a valid driver's license,
- (4) The owner has provided any false information in their application,
- (5) The vehicle does not conform to the requirements of this Article.

(H) **False Information.** It shall be unlawful for anyone to provide false information in the application for a permit to operate a golf cart, Utility Task Vehicle (UTV) neighborhood vehicle.

24-10-4 OPERATION ON CERTAIN STREETS AND ROADS PROHIBITED.

(A) **Prohibited Streets.** Except as expressly authorized in this Section, it shall be unlawful for any person to operate a golf cart, neighborhood vehicle and Utility Task Vehicle as follows:

- (1) Any street which has a posted speed limit of greater than **thirty (30) miles per hour.**
- (2) On the following roadways:
 - (a) Illinois Route 4
 - (b) Illinois Route 108
 - (c) Alton road/Shipman Road
 - (d) University Avenue
- (3) Golf carts, neighborhood vehicles and Utility Task Vehicles may only cross Illinois Route 4 at McDaniels Street at North Broad Street, and Button Street at East 1st South.
- (4) Golf carts, neighborhood vehicles and Utility Task Vehicles may only cross Illinois Route 108 at Button Street at East 1st South, and Oak Street at West Main Street.

(B) **Authorization of Vehicles.** Golf carts, neighborhood vehicles and Utility Task Vehicles may not be operated on any street or road under the jurisdiction of another local unit of government or private entity which has not authorized the use of neighborhood vehicles; such as, those roads maintained by the Carlinville Park District, Carlinville Community Unit School District No. 1 and Blackburn College.

24-10-5 **OBEDIENCE TO VEHICLE CODE.**

(A) Every operator of a golf cart, neighborhood vehicle and Utility Task Vehicle shall obey all sections of **625 ILCS 5/1-100 et seq.**, the Illinois Vehicle code, and all provisions of this Article.

(B) The City may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this Article or if there is evidence that the permit holder cannot safely operate the motorized golf cart, neighborhood vehicle or Utility Task Vehicle on the designated roadways.

(C) Every person operating a golf cart, neighborhood vehicle or Utility Task Vehicle pursuant to a permit hereunder on designated City streets has all the rights and duties applicable to a driver of any other vehicle pursuant to the state highway traffic laws and regulations except when those provisions cannot reasonably be applied to motorized golf carts, neighborhood vehicles or Utility Task Vehicle.

24-10-6 **PENALTIES.**

(A) A violation of this Article shall be punishable by a minimum fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty dollars (\$750.00)**, except a violation of **Section 24-10-2(B)(3)** of this Article shall be punishable by a minimum fine of not less than **Three Hundred Dollars (\$300.00)**.

(B) A second conviction for a violation of this Article within **one (1) year** of the date of a prior conviction shall result in suspension of permit, to be reinstated only by the Mayor.

(C) Upon conviction of operating a golf cart, neighborhood vehicle or Utility Task Vehicle or on a state highway, other than crossing at the designated locations, shall result in a fine no less than **Seven Hundred Fifty Dollars (\$750.00)** and the suspension of permit for **one (1) year.**

24-10-7 **EFFECTIVE DATE.** This Article shall be in full force and effect on and after **February 1, 2020.**

(Ord. No. 1819; 01-06-20)

SCHEDULE "A"

STOP INTERSECTIONS

In accordance with the provisions of **Section 24-3-3**, the following streets are hereby designated as stop intersections, to-wit:

I. ONE AND TWO-WAY STOPS.

<u>THROUGH STREET</u>	<u>STOP STREET (DIRECTION)</u>
West Main St. North Broad St.	All Intersecting Streets All Intersecting Streets
Alton St. Anderson St. Anderson St.	Loveless Park Rd. (West Bd.) De Arbee Dr. (West Bd.) Nicholas St. (Both) (#1450)
Beaver St. Blackburn St. Blackburn St. Broad St. Broad St. Buchanan St. Buchanan St. Buchanan St.	Sumner St. (Both) Crittenden St. (South Bd.) West St. (Both) Hoehn St. (Both) Morgan St. (Both) Anderson St. (Both) (#1787) Chiles St. (North Bd.) N. West St. (Both) (#1527)
Center St. Center St. Center St. Charles St. Cherry St. Cherry St. Chiles St. Chiles St. Church St. College Ave. College Ave.	E. Main St. (Both) First North St. (Both) Second South St. (East Bd.) Morgan St. (Both) Burke St. (Both) Church St. (Both) (#1363) Hemphill St. (Both) (#1378) Killiam St. (East Bd.) Loveless Park Rd. (East Bd.) Morgan St. (Both) Ravine St. (West Bd.)
Denby St.	Hemphill St. (West Bd.) (#1378)
East St. East St. East St. East St. East St. East St. East St. East St. East First North St. Ellison St.	Buchanan St. (Both) Cherry St. (East Bd.) Jackson St. (Both) McDaniel St. (Both) Morgan St. (Both) Rice St. (Both) Washington St. (Both) Center St. (Both) (#1550) Second South St. (Both) (#1403)

SCHEDULE "A" (CONTINUED)

THROUGH STREET	STOP STREET (DIRECTION)
First North St.	College Ave. (Both)
First North St.	High St. (Both)
First North St.	Johnson St. (South Bd.)
First North St.	Locust St. (Both)
First North St.	Oak St. (Both)
First North St.	Plum St. (Both)
First North St.	Union St. (North Bd.)
First North St.	West St. (Both)
First South St.	Oak St. (Both)
First South St.	West St. (Both)
High St.	Buchanan St. (Both)
High St.	Carlinsville Plaza (West Bd.) (#1361)
High St.	McDaniel St. (East Bd.)
High St.	Rice St. (Both)
High St.	Whitely St. (Both) (#1322)
N. High St.	East First North St. (Both) (#1584)
Hoehn St.	Edwards St. (North Bd.)
Illinois Rte. 4	Eastland Court (#1394)
Johnson St.	Buchanan St. (East Bd.)
Johnson St.	Washington St. (Both)
Killiam St.	Burton St. (Both)
Killiam St.	Denby St. (South Bd.)
Killiam St.	Harrington St. (South Bd.)
Killiam St.	Minton St. (Both) (#1541)
Killiam St.	Rice St. (Both)
Locust St.	Ash St. (Both)
Locust St.	Cedar St. (West Bd.)
Locust St.	Cherry St. (Both)
Locust St.	Chestnut St. (West Bd.)
Locust St.	Mulberry St. (Both)
Locust St.	Pine St. (Both)
Locust St.	Spruce St. (Both)
Locust St.	Walnut St. (West Bd.) (#1450)
Lomis Ave.	Nicholas St. (West Bd.)
Loveless St.	Marshall St. (North Bd.)
Loveless St.	West St. (North Bd.)
Marshall St.	Blackburn St. (Both) (#1320)
Mayo St.	Cherry St. (East Bd.)
Mayo St.	Elm St. (Both)
Mayo St.	Hickory St. (East Bd.)
Mayo St.	Hill St. (Both) (#1384)
Minton St.	Killiam St. (West Bd.)
Morgan St.	Carlinsville Hospital Dr. (North Bd.)

SCHEDULE "A" (CONTINUED)

THROUGH STREET	STOP STREET (DIRECTION)
Morgan St.	Center St. (Both)
Morgan St.	High St. (#1517)
Morgan St.	Orient St. (Both) (#1328)
Morgan St.	Sumner St. (South Bd.)
Mulberry St.	Burke St. (Both) (#1363)
Mulberry St.	Church St. (Both) (#1285)
Mulberry St.	Mayfield St. (Both)
Mulberry St.	Oak St. (Both)
Nicholas St.	Anderson St. (Both)
Nicholas St.	Briar Creek Ln. (#1518)
Nicholas St.	Charles St. (Both) (#1374)
Nicholas St.	De Arbee Dr. (South Bd.)
Nicholas St.	Denby St. (North Bd.)
Nicholas St.	East St. (Both)
Nicholas St.	Harrington St. (North Bd.)
Nicholas St.	Johnson St. (Both)
Nicholas St.	Minton St. (North Bd.)
Nicholas St.	Oak St. (South Bd.)
Nicholas St.	Orient St. (#1518)
Nicholas St.	Plum St. (Both)
Nicholas St.	University St. (South Bd.)
Nicholas St.	West St. (Both)
Oak St.	Breckenridge St. (#1514)
Oak St.	Buchanan St. (Both)
Oak St.	Cherry St. (Both)
Oak St.	Pine St. (Both)
Pine St.	Burke St. (South Bd.)
Pine St.	Church St. (Both) (#1358)
Pine St.	Mayfield St. (Both) (#1392)
W. Pine St.	Locust St. (Both) (#1483)
Plum St.	Ash St. (Both) (#1358)
Plum St.	Cedar St. (Both)
Plum St.	Cherry St. (Both)
Plum St.	Chestnut St. (East Bd.)
Plum St.	Lynn St. (East Bd.)
Plum St.	Mulberry St. (Both)
Plum St.	Orange St. (East Bd.)
Plum St.	Pine St. (Both)
Plum St.	First South St. (Both)
Plum St.	Second South St. (Both)
Plum St.	Spruce St. (Both)
Plum St.	Walnut St. (Both)
Prairie St.	Center St. (North Bd.)
Second South St.	Burke St. (North Bd.)
Second South St.	Button St. (South Bd.)
Second South St.	Charles St. (South Bd.) (#1313)
Second South St.	Church St. (North Bd.)

SCHEDULE "A" (CONTINUED)

THROUGH STREET	STOP STREET (DIRECTION)
Second South St.	Ellison St. (Both)
Second South St.	High St. (South Bd.)
Second South St.	Oak St. (Both)
Streamwood Ln.	Briar Creek Ln. (South Bd.) (#1550)
Sumner St.	Buchanan St. (Both)
Sumner St.	Maple St. (Both)
Sumner St.	Rice St. (Both)
Sumner St.	Washington St. (Both)
University Ave.	Buchanan St. (East Bd.)
University Ave.	Burton St. (East Bd.)
University Ave.	Rice St. (East Bd.)
University Ave.	Washington St. (East Bd.)
University Ave.	Whitely St. (East Bd.)
University Ave.	Wilson St. (East Bd.)
Washington St.	N. East St. (Both) (#1325)
West St.	Cherry St. (Both)
West St.	Elm St. (West Bd.)
West St.	Hoehn St. (Both) (#1318)
West St.	Jackson St. (Both) (#1384)
West St.	Pine St. (East Bd.) (#1450)
West St.	Sonneman St. (West Bd.)
West St.	Spruce St. (East Bd.)
Whitely St.	Charles St. (North Bd.)
Whitely St.	Johnson St. (Both)
Wilson St.	Charles St. (North Bd.)
Wilson St.	High St. (North Bd.)
Wilson St.	Johnson St. (North Bd.)
Wilson St.	M. Stevens Plaza (South Bd.)
Wilson St.	Sumner St. (North Bd.)

II. TWO AND THREE-WAY STOPS.

THROUGH STREET (DIRECTION)	STOP STREET (DIRECTION)
Burton St. (West Bd.)	at Sumner St. (South Bd.)
Charles St. (North Bd.)	at Second South St. (Both)
High St. (North Bd.)	at Maple St. (West Bd.)
Locust St. (South Bd.)	at Orange St. (Both)

SCHEDULE "A" (CONTINUED)

III. FOUR-WAY STOPS.

THROUGH STREET		STOP STREET
S. Broad St.	at	Mulberry St.
S. Broad St.	at	Second South St.
Charles St.	at	Burton St.
Charles St.	at	First North St.
Charles St.	at	Maple St.
Charles St.	at	Rice St.
Charles St.	at	Washington St.
East St.	at	Second South St.
Hemphill St.	at	Anderson St.
High St.	at	Washington St.
High St.	at	E. Main St. (#1466)
E. Main St.	at	Charles St.
E. Main St.	at	East St.
Mayo St.	at	Hoehn St.
McDaniel St.	at	West St.
Morgan St.	at	Johnson St.
Nicholas St.	at	Chiles St.
Nicholas St.	at	College Ave.
Nicholas St.	at	High St.
First North St.	at	East St. (#1466)
First South St.	at	Locust St.
Second South St.	at	Locust St. (#1413)
Second South St.	at	West St.
Sumner St.	at	Whitley St.

IV. MOVEABLE STOP SIGNS.

During the hours of **seven o'clock (7:00) A.M.** to **four o'clock (4:00) P.M.** on days when school is in session at West School in Carlinville, the drivers entering or crossing Anderson Street from Buchanan Street shall bring said vehicles to stop before proceeding when directed to stop by a moveable stop sign. (**Ord. No. 1118; 08-04-86**)

V. SPECIAL STOPS.

A stop sign shall be placed in the middle of East Morgan Street between North Broad and North East Streets requiring vehicles traveling in a Westerly direction on East Morgan Street to stop. It shall be unlawful for vehicles traveling West on East Morgan Street not to stop where said stop sign is placed. (**Ord. No. 1475; 03-03-03**)

On both the east bound lane and west bound lane of Loveless Parkway at the eastern lane of the U-shaped parking lot located in Loveless Park. (**Ord. No. 1568; 05-19-08**)

On the eastern lane of the U-shaped parking lot located in Loveless Park at Loveless Parkway. (**Ord. No. 1568; 05-19-08**)

On both the east bound lane and the west bound lane of Loveless Parkway at the western lane of the U-shaped parking lot located in Loveless Park. (**Ord. No. 1568; 05-19-08**)

On the western lane of the U-shaped parking lot located in Loveless Park at Loveless Parkway. (**Ord. No. 1568; 05-19-08**)

SCHEDULE "B"

ONE-WAY STREETS

In accordance with the provisions of **Section 24-3-2** the following streets are hereby designated as one-way or restricted flow streets:

Motor vehicular traffic shall not exit onto West Main Street from the alley or driveway running in a northerly and/or southerly direction through Lots 50, 60 and 61 in the Original Plat of Carlinville. The north end of said alley or driveway may be used as an exit, or entrance from or into said alley or driveway. Signs shall be placed at the north and south end of said alley or driveway to indicate the intent of this Section. **(Ord. No. 770; 02-03-69)**

SCHEDULE "C"

YIELD RIGHT-OF-WAY STREETS

In accordance with the provisions of **Section 24-3-4**, the following are hereby declared to be "Yield Right-of-Way" streets:

THROUGH STREET

YIELD STREET

McCausland St.
McCausland St.
McCausland St.

Pizza Hut Exits **(Ord. No. 1294)**
Sullivan Drugs Exits **(Ord. No. 1294)**
Wal-Mart Exits **(Ord. No. 1294)**

SCHEDULE "D"

SPEED ZONES

In accordance with the provisions of **Section 24-4-2**, the following are hereby designated as special speed zones.

I. SCHOOL SPEED ZONES.

In order to regulate and control the traffic of vehicles adjacent to or in the area of the North School, the South School and the West School, the corporate authorities shall have the authority to erect signs at the locations herein designated and shall read as follows:

School Days
8 A.M. - 4 P.M.
15 MPH

On Maple Street at Charles Street.

On High Street at McDaniels Street.

On High Street at Nicholas Street.

On West Second South Street at South West Street.

On East Second South Street at South East Street.

On South Broad Street at East First South Street.

On South Broad Street at Cherry Street.

On Nicholas Street from Oak Street to Chiles Street. (**Ord. No. 914; 03-06-78**)

On Shipman Road from the Northwest corner of the school property to the Southwest corner of the school property. (**Ord. No. 1473A; 02-03-03**)

II. GENERAL SPEED ZONES.

STREET - LIMIT

LOCATION

N. Broad St. – 30 MPH

From Shad Rd. to the set of railroad tracks located to the south of Shad Rd. (**#1500**)

Cottonwood Dr. - 25 MPH (**#1570**)

Coyote Dr. - 25 MPH (**#1570**)

Fox Hill Dr. - 25 MPH (**#1570**)

Morgan St. – 15 MPH

From Charles St. to North East St. (**#1421; 09-18-00**)

W. Nicholas St. – 20 MPH

From Chiles St. to a point 200 feet east of Anderson St. (**#1415; 03-06-00**)

Old Ill. Route 4

From The northern limits of the City to Shad Rd. (**#1488**)

Pheasant Ln. - 25 MPH (**#1570**)

Pine St. - 25 MPH

From Shipman Blacktop to Locust St. (**#1345; 08-05-96**)

Quail Run Dr. - 25 MPH (**#1570**)

Shipman Blacktop - 40 MPH

From W. Main St. to City limits (**#1566; 05-05-08**)

White Tail Dr. - 25 MPH (**#1570**)

SCHEDULE "F"

NO PARKING ZONES

In accordance with the provisions of **Section 24-6-3** the following are designated as No Parking Zones:

<u>STREET - SIDE</u>		<u>LOCATION</u>
Alton St. (Both)	From	IL 108 southerly to 975.48 south of Rinaker Rd. (#1467)
First South St.	From	Center St. and the East City Limits. (Ord. No. 1287)
Blackburn College	Within	50 feet from the south side of the entrance to Graham and Challacomb Parking Lot. (Ord. No. 1257)
Breckenridge St. (North)	From	Oak St. West. (Ord. No. 1173)
Broad St.	From	The Public Square to E. 1st South St. (#1329)
Broad St. (East)	From	A point 50 feet south of Jackson St. to 66 feet north of Jackson.
Broad St. (East)	From	Mulberry St. north for 100 feet. (Ord. No. 1081)
Broad St. (East)	From	First North St. north 150 feet. (Ord. No. 832)
Broad St. (Both)	From	Nicholas St. 100 feet north and south. (Ord. No. 832)
S. Broad St. (West)	From	First South St. north 150 feet. (Ord. No. 832)
S. Broad St. (West)		Along School property during school hours. (Ord. No. 751)
Charles St. (Both)	From	East First South St. and East Second South St. (#1497)
Chiles St. (East)	From	Killiam St. south a distance of 135 feet. (Ord. No. 815)
Daley St.		Along Public Square - As Posted.
Daley St. (Both)		Entire Distance (Ord. No. 1111)
S. East St. (West)	From	E. First South St. north 30 feet. (Ord. No. 803)
East St. (East)	From	E. 1st South St. and E. 2nd South St.
East St. (West)	From	E. 2nd South St. north 165 feet. (Ord. No. 1177)
High St. (Both)	From	E. Main St. to E. 1st South. (Ord. No. 931)
High St. (West)	From	South side of the North School to Nicholas St. during the school hours.
High St. (Both)	From	E. Main St. 50 feet north and south.
High St. (Both)	From	E. 1st South 50 feet north and south.
Hoch St. (Both)	From	Entire Distance. (Ord. No. 1111)
Hoch St.		Along Public Square - As Posted.

STREET - SIDE		LOCATION
Loomis Ln. (Both)	From	W. Main St. North 360 feet. (Ord. No. 1052)
Main St. (Both)	From	I.C.G.R.R. to Loomis Ln. (Ord. No. 941)
Main St.	From	958.57 feet west of the centerline of McCausland St. easterly to 169.85 feet west of the centerline of southbound Chiles St. (#1432)
W. Main St.		In front of Marvel Theatre (during shows)
Nicholas St. (Both)	From	Broad St. 100 feet east and west. (Ord. No. 832)
Nicholas St. (Both)	From	West St. to East St. (Ord. No. 1159)
Nicholas St. (Both)	From	Charles St. to Orient St. (Ord. Nos. 1173 & 1374)
Nicholas St. (South)	From	East St. to Charles St. (Ord. No. 1379)
First North St. (Both)	From	Broad St. east 150 feet. (Ord. No. 832)
First North St. (South)	From	N. Broad St. to a point 82 feet west of East St.
W. First North St. (Both)	From	Broad St. to N. West St. (Ord. No. 802)
W. First North St. (South)	From	N. West St. to N. Plum St. (Ord. No. 1233)
E. First North St. (North)	From	N. Broad St. to High St.
E. First North St. (North)	From	N. Broad St. to N. East St. (Ord. No. 802)
Plum St. (Both)	From	W. Main St. south 15 feet. (Ord. No. 1639)
Plum St. (East)		Along Marvel Theatre (during shows)
Plum St. (Both)	From	75 feet south of W. Main St. to southern boundary of the City (Ord. No. 1639)
Sonneman St. (Both)		Entire Distance (Ord. No. 1111)
Sonneman St.		Along Public Square - As Posted.
W. First South St. (South)		Along school property during school hours. (Ord. No. 751)
W. Second South St. (North)		Along school property during school hours. (Ord. No. 751)
E. First South St. (North)	From	East St. west 30 feet.
E. First South St. (North)	From	East St. east 55 feet.
E. First South St. (South)	From	East St. east 45 feet.
East First South St. (North)	From	High St. west 30 feet. (Ord. No. 911)
First South St. (South)	From	S. Broad St. east 137 feet.
First South St. (Both)	From	Broad St. east and west 150 feet. (Ord. No. 832)
First South St. (North)	From	S. Broad St. west 125 feet.

STREET - SIDE		LOCATION
University Ave. (East)	From	Nicholas St. northward to the northern boundary of the City (Ord. No. 1602)
University Ave. (West)	From	Nicholas St. to Wilson St., except in graveled right-of-way areas west of the painted western boundary line of University Ave. (Ord. No. 1602)
Washington St. (Both)	From	Johnson St. to University St. (#1305)
West St. (East)	From	Sonneman St. to W. 1st St.

SCHEDULE "G"
LIMITED PARKING

In accordance with the provisions of **Section 24-6-3** the following are hereby designated as limited parking streets, to-wit:

STREET - SIDE	LOCATION - TIME
Broad St. (Both) S. Broad St. (West)	From First North to First South St. From W. First South St. W. Second South St. between the hours of 7:00 A.M. and 4:30 P.M. when school is in session at the South School except for a period of ten minutes to pick-up and/or deliver children. (Ord. No. 1286)
S. Broad St. (West)	From W. First South St. south 240 feet between 7:00 A.M. and 4:30 P.M. during school hours. (Ord. No. 1156)
E. Buchanan St. (Both)	From Johnson St. to University Ave. during the months of September through May. (Ord. No. 1284)
W. Buchanan St. (North)	Adjacent to the West School property where posted from 7:30 A.M. to 8:30 A.M. and from 2:30 P.M. to 3:30 P.M. on school days. (Ord. No. 1448)
Chiles St. (Both)	From Nicholas St. to Buchanan St. between 7:00 A.M. and 9:00 A.M. and 2:00 P.M. to 4:00 P.M. on school days. (Ord. No. 1187)
N. East St. (East)	At 213 N. East St. (Senior Center) two spaces between 8:00 A.M. and 2:00 P.M. (Ord. No. 1186)
High St. (Both)	From East First North St. and E. Main St. Monday through Saturday. (Ord. No. 769)
Illinois St. (Both)	Entire length on school days from 7:30 A.M. to 4:00 P.M. (Ord. No. 1026)
Main St. (Both)	From West St. to East St. - (No truck of one ton capacity may be parked here.)
E. Main St. (North)	From N. East St. east 200 feet one hour before and during funeral services. (Ord. No. 826)

STREET - SIDE	LOCATION - TIME
Nicholas St. (North)	From Anderson St. to Broad St. (Ord. No. 982)
E. First North St. (South)	From N. East St. and High St. (except as posted).
Parking Lot (Entire)	From East of Library between the hours of 2:00 P.M. and 8:00 P.M. on Monday through Thursday and 9:00 A.M. through 5:00 P.M. on Friday and Saturday. (Ord. No. 1281)
Plum St. (Both)	From 15 feet south of W. Main St. to 75 feet south of W. Main St. parallel parking is required in the spaces designated for parking (Ord. No. 1639)
N. Plum St. (Both)	From W. First North south 96 feet. (Ord. No. 755)
Public Square	No truck of one ton capacity or larger may be parked here.
Rte. 108 (North)	From Illinois St. to Minton St. on school days from 8:00 A.M. to 4:00 P.M. (Ord. No. 879)
Rte. 108 (South)	From Illinois St. to Loomis Lane on school days from 8:00 A.M. to 4:00 P.M.
W. First South St. (Both)	From A point 95 feet east of Alton Rd. for one-half block. (Ord. No. 798)
W. First South St. (West)	From Broad St. and S. West St. between the hours of 8:00 A.M. to 4:00 P.M. on school days.
E. First South St. (South)	From Button St. west for 200 feet one hour before and during funeral services. (Ord. No. 826)
W. Second South St. (North)	From Broad St. west 96 feet (between 7:00 A.M. and 4:30 P.M. when school is in session).
S. Broad St. (West)	From W. First South St. to W. Second South St. between the hours of 7:00 A.M. and 4:30 P.M., on those days when school is in session at the South School; except for a period of 10 minutes to pick up and/or deliver children at the school.
W. Second South St.	From S. Broad St. to S. West St. The street shall be closed to all traffic (except school buses) between the hours of 7:30 A.M. and 8:30 A.M. and 2:30 P.M. and 3:30 P.M. on those days when school is in session at the South School. (Ord. No. 1286)

STREET - SIDE **LOCATION - TIME**

FIVE MINUTE LIMIT FROM 8:00 A.M. TO 6:00 P.M.

E. First South St. In front of Post Office
S. East St. Alongside Post Office.

TEN MINUTE LIMIT - FROM 8:00 A.M. TO 6:00 P.M. (ORD. NO. 787)

W. Main St. (South) From Oak St. east 170 feet. **(Ord. No. 787)**

TEN MINUTE LIMIT - FROM 8:00 A.M. TO 12:00 NOON ON ALL SUNDAYS. (ORD. NO. 1194)

S. Broad St. (East) From 1st South St. south 141 feet. **(Ord. No. 1194)**

FIFTEEN MINUTE LIMIT.

N. Broad St. (Both) From North St. to Broadway St. **(Ord. No. 1066)**

ONE HOUR LIMIT - 8:00 A.M. TO 4:00 P.M. - MONDAY THROUGH FRIDAY.

Illinois St. (Both) Entire Distance. **(Ord. No. 950)**

ONE HOUR LIMIT - 8:00 A.M. TO 5:00 P.M. - MONDAY THROUGH FRIDAY.

S. East St. (East) From E. First South St. to E. 2nd South St. **(Ord. No. 1030)**

SCHEDULE "H"
ANGLE PARKING REQUIRED

In accordance with the provisions of **Section 24-6-3**, the following areas are hereby designated as angle parking zones:

<u>STREET - SIDE</u>	<u>LOCATION</u>
Public Square	Entire Area.

SCHEDULE "I"
HANDICAPPED PARKING

In accordance with the provisions of **Section 24-6-4(E)** the following areas are hereby designated as "handicapped parking zones", to-wit:

The easternmost rectangular parking place on the north side of the Square.

The northernmost rectangular parking place on the west side of the Square.

The westernmost rectangular parking place on the south side of the Square.

The southernmost rectangular parking place on the east side of the Square.

The rectangular parking place which is on the east side of North East Street and which is the fourth rectangular parking place north of the northeast corner of the intersection of East Main Street and North East Street, when such parking place is designated as a parking place for handicapped persons by a moveable sign. (Said moveable sign to be used at the direction of the pastor of St. Paul's United Church of Christ.)

The rectangular parking place which is on the south side of West Main Street and which is the second rectangular parking place east of the southeast corner of the intersection of West Main Street and South West Street.

SCHEDULE "K"
LOAD LIMITS - 8 TON

In accordance with the provisions of **Section 24-8-2** the following streets are hereby designated as load limit streets:

<u>STREET</u>	<u>LOCATION</u>
Chiles St.	From Nicholas St. to Buchanan St. (Ord. No. 1140)
Lake Carlinville Rd.	Entire Distance (Ord. No. 792)
Locust St.	From West Main St. south to Orange St.
Orange St.	From Locust St. east to S. Plum St.
First South St.	From S. Plum to Alton St.

SCHEDULE "M"
LOAD LIMIT - 5 TON

In accordance with the provisions of **Section 24-8-3** the following are hereby designated as load limit streets:

STREET	LOCATION
S. Broad St.	From Hoehn St. south to City limits.
High St.	From E. Main St. to First South St. (Ord. No. 911)

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.

(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 1/2) 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) **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)

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 **three (3) 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 **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within **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 Penalty]

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Chief of Police or a designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-3-5 **LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-3-6 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

25-3-7 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

(65 ILCS 5/11-20-13 and 720 ILCS 5/47-10)

[See Section 1-1-20 for Penalty]

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 **DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

"INOPERABLE MOTOR VEHICLES" shall mean any motor vehicle which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

25-4-2 **DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

25-4-3 **NOTICE TO OWNER.** The Police Chief or a designated representative shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Chief or a designated representative may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof.

25-4-4 **EXCLUSIONS.** Nothing in this Article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

(65 ILCS 5/11-40-3)

ARTICLE V - UNLICENSED AND/OR UNATTENDED MOTOR VEHICLES

25-5-1 **NUISANCE DECLARED.** Any motor vehicle which is not currently licensed by the State of Illinois and which is allowed or permitted to remain unattended upon any street, alley, lot, or premises within the Corporate Limits of the City for a period of time in excess of **fourteen (14) days** shall be deemed a nuisance.

25-5-2 **DEFINITION.** For the purpose of this Article, the term motor vehicle shall include but shall not be limited to the following: motorcycles, passenger automobiles, trucks of all types, semi-trailers and all other vehicles which are propelled other than by muscular power.

25-5-3 **EXCEPTION.** This Article shall not apply to any automobile dealer and the motor vehicles in and upon said dealers business premises, who has purchased a dealer's license from the State of Illinois.

25-5-4 **ABATEMENT; NOTICE.** The owner of said motor vehicle, upon being notified in writing by any City official to abate or remove such nuisance within a time to be specified in said written notice, not less than **four (4) days** nor more than **ten (10) days** from the date thereof, and who shall neglect or refuse to do so, shall upon conviction be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** and shall be subject to a like penalty for each day that such nuisance shall be permitted or suffered to remain after the expiration of the time fixed by said written notice for the abatement of such nuisance.

The City may remove and/or abate such nuisance at the expense of the owner of said unlicensed motor vehicle, when upon being notified in writing of said nuisance the owner does not abate or remove the nuisance.

(Ord. No. 1312; 06-05-95)

ARTICLE VI – OUTDOOR WOOD-FIRED BOILERS AND WOODSTOVES

25-6-1 STANDARDS AND REGULATIONS FOR OUTDOOR WOOD-FIRED BOILERS AND WOODSTOVES. This shall govern all Outdoor Wood-Fired Boilers, hereinafter referred to as OWBs and similar devices, including those commonly known as Outdoor Furnaces, Outdoor Wood-Fired Hydronic Heaters, Outdoor Wood Water Heaters or Water Stoves.

This Article shall also govern all Woodstoves.

The purpose is to ensure that wood and other fuel is burned in an efficient manner that will minimize environmental and health impact.

25-6-2 DEFINITIONS. For the purpose of this Article, the following definitions shall apply, unless the context clearly indicates a different meaning.

(A) **Refuse.** Any waste material except clean firewood. Examples follow:

- (1) Wood that has been painted, varnished or coated with similar materials, and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products, including, but not limited to, particleboard;
- (2) Rubbish or garbage, including, but not limited to, food wastes, food packaging and food wraps;
- (3) Any plastic materials, including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers;
- (4) Rubber, including tires and other synthetic rubber-like products;
- (5) Newspaper, cardboard or any paper with ink or dye products;
- (6) Paints or paint solvents;
- (7) Leaves and lawn waste; and
- (8) Coal.

(B) **Outside Wood-Fired Boilers (OWBs).** A fuel burning device designed to conform to the following:

- (1) Burns dry seasons wood, corn pellets or wood pellets;
- (2) Not to be located inside structures ordinarily occupied by humans;
- (3) Heats spaces or water by the distribution through pipes of a fluid heated device, the fluid typically being water.

Examples of common uses of OWBs include: residential or commercial space heating; heating of domestic water; or heating water for swimming pools, hot tubs or whirlpool baths.

(C) **Woodstove.** A fuel burning device which produces heat for structures and is located inside or outside a structure.

(D) **Natural Wood.** Natural wood shall be wood that does not have moisture content either internally or externally which would cause said natural wood during combustion, to discharge an excess amount of water vapor.

(E) **Spark Arrester.** A screen or expanded metal covering on the outlet of an exhaust or chimney, which allows smoke to pass through, but prevents sparks from existing and creating a fire hazard.

(F) **Labeled.** Device, equipment or materials to which have been affixed a label, seal, symbol or other identifying mark of a testing laboratory, inspection agency or other organization concerning with produce evaluation that maintains periodic inspection of the production of the above labeled items that attests to compliance with a specific standard.

25-6-3 **RULES AND REGULATIONS FOR OWBS.** The following rules and regulations apply to all OWBs located within the City:

(A) The OWB must have an attached permanent stack extending **two (2) feet** higher than the peak of any house or structure that the OWB is heating. This requirement concerning stack height will be eliminated if the owner(s) of the structure which is receiving heat from the OWB provide(s) the City with written proof from a reputable insurance company that the insurance company is aware of the woodstove and the height of the stack serving it, and that the insurance company currently provides insurance coverage in reasonable amounts insuring against fire and other extended risks to the structure where the OWB is located, and the structure receiving the heating from the OWB.

(B) All OWBs shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this Article. In the event of a conflict, the requirements of this Article shall apply unless the manufacturer's instructions are the stricter, in which case the manufacturer's instructions shall apply.

(C) All OWBs shall be equipped with properly functioning spark arrestors to be in conformity with Section R1003.9.1 of the International Residential Code unless the manufacturer's specifications are more stringent, in which case the manufacturers' specifications apply.

(D) No refuse shall be burned in an OWB. Dry seasoned wood, wood pellets and corn pellets are the only fuel which can be burned in an OWB.

(E) The OWB shall not discharge any air contaminants in the outdoor atmosphere which violate this Code or any other applicable laws, rules or regulations.

25-6-4 **RULES AND REGULATIONS FOR WOODSTOVES.** The following rules and regulations apply to all Woodstoves located within the City:

(A) The Woodstove must have an attached permanent stack extending **two (2) feet** higher than the peak of any house or structure that the Woodstove is heating. This requirement concerning stack height will be eliminated if the owner(s) of the structure where the woodstove is located provide(s) the City with written proof from a reputable insurance company that the insurance company is aware of the woodstove and the height of the stack serving it and that the insurance company currently provides insurance coverage in reasonable amounts insuring against fire and other extended risks to the structures which are being heated by the woodstove.

(B) All Woodstoves shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and the requirements of this Article. In the event of a conflict, the requirements of this Article shall apply unless the manufacturer's instructions are the stricter, in which case the manufacturer's instructions shall apply.

(C) All Woodstoves shall be equipped with properly functioning spark arrestors to be in conformity with Section R1003.9.1 of the International Residential Code

unless the manufacturer's specifications are more stringent, in which case the manufacturers' specifications apply.

(D) No refuse shall be burned in a Woodstove. Dry seasoned wood, wood pellets and corn pellets are the only fuel which can be burned in a Woodstove.

(E) The Woodstove shall not discharge any air contaminants into the outside atmosphere which violate this Code or any other applicable laws, rules or regulations.

25-6-5 **FINES FOR VIOLATIONS.** Any person violating any Section of this Article shall be fined, upon conviction, as provided in **Section 1-1-20** of this Code.

25-6-6 **ADDITIONAL REMEDIES.** In addition to the fines set forth in **Section 25-7-5** above, the City may pursue injunctive relief or any other relief permitted by law to prevent the violation of any Section of this Article.

(Ord. No. 1677; 09-17-12)

ARTICLE VII - DANGEROUS AND UNSAFE PROPERTIES

25-7-1 **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.

ARTICLE VIII - PENALTIES AND SPECIAL ASSESSMENT

25-8-1 **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.

ARTICLE IX - BUILDING AS NUISANCE

25-9-1 **BUILDING CONDITION - NUISANCE.** The Police Chief shall report to the City Council when any building, structure or mobile housing unit in the City is in a dangerous condition and constitutes a nuisance. All references to building shall include structure or mobile housing unit.

25-9-2 **TIME LIMIT.** The owner of such building shall repair or alter it so as to make it safe within **ninety (90) days** from the time the notice is served upon him in the manner provided by law.

25-9-3 **NOTIFICATION.** The Police Chief with the approval of the City Council shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the City Officials. This notice shall remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this notice until such notice is complied with."

25-9-4 **DANGEROUS AND UNSAFE BUILDINGS DEFINED.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%)** or more of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City.

(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or property.

(J) Those buildings existing in violation of any provision of the Revised Code of this City, or any other ordinances of the City.

(K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.

(L) Those buildings which are uncompleted or abandoned.

25-9-5 STANDARDS FOR REPAIR, VACATION OR DEMOLITION. The following standards shall be followed in substance by the Police Chief in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case where a "dangerous and unsafe building" is **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the City, or statute of the State of Illinois, it shall be demolished.

25-9-6 DANGEROUS AND UNSAFE BUILDINGS - NUISANCES. All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

25-9-7 DUTIES OF THE ATTORNEY. The City Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with and when requested to do so by the Police Chief.

25-9-8 LIENS. The cost of repair, demolition, vacation, or enclosure shall be recoverable from the owner or owners of such real estate and shall be a lien thereon, which lien shall be subordinate to all prior existing liens and encumbrances; provided that within **sixty (60) days** after said cost and expense is incurred, the City or person performing the service by

authority of the City, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

(A) A description of the real estate sufficient for identification therefor;

(B) The amount of money representing the cost and expense incurred or payable for the service; and

(C) The date or dates when said cost and expense was incurred by the City.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the City or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced within **three (3) years** after the date of filing notice of lien.

(See Section 25-7-1)

(See 65 ILCS Sec. 5/11-31-1 et seq.)

CITY OF CARLINVILLE

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 _____, ____.

POLICE CHIEF OR CODE ENFORCEMENT OFFICER
CITY OF CARLINVILLE

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.

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.

POLICE CHIEF OR CODE ENFORCEMENT OFFICER
CITY OF CARLINVILLE

Dated this _____ day of _____, _____.

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.

POLICE CHIEF OR CODE ENFORCEMENT OFFICER
CITY OF CARLINVILLE

Dated this _____ day of _____, ____.

NOTICE
INOPERABLE VEHICLE

TO: _____

You are hereby notified that the Police Department has determined that an "inoperable vehicle(s)" owned by you (and/or stored by you, as the case may be) located at _____, located within the Corporate Limits of this Municipality contains an inoperable vehicle(s), as defined by **Chapter 25, Article IV**, of the Revised Code of Ordinances.

You are required to abate and remove any and all inoperable vehicles within **seven (7) days** from the date of this Notice.

If you wish to appeal said notice, then the appeal shall be made to the Corporate Authorities within **five (5) days** of this Notice.

If you refuse or neglect to remove and dispose of the specified inoperable vehicle(s), the Health Officer or Police Chief of this Municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

POLICE CHIEF OR CODE ENFORCEMENT OFFICER
CITY OF CARLINVILLE

Dated this _____ day of _____, ____.

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 Carlinville, 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 _____, ____.

POLICE CHIEF OR CODE ENFORCEMENT OFFICER
CITY OF CARLINVILLE

(SEAL)

CARLINVILLE POLICE DEPARTMENT

**NOTICE OF VIOLATION OF CHAPTER 25
OF THE REVISED CODE OF ORDINANCES**

NAME OF VIOLATOR: _____

ADDRESS: _____

- UNLAWFUL WEED GROWTH: (Code 25-2-2) It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of Real Estate to refuse or neglect to cut weeds when such weeds shall have reached a height in excess of eight (8) inches. Such weeds or grass shall be cut by the owner or occupant within three (3) days after such notice has been duly served by the Street Superintendent, Chief of Police, Mayor or any such designated person of the City.
- UNLAWFUL GARBAGE AND/OR DEBRIS: (Code 25-3-1) No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of Real Estate to refuse or neglect to remove the garbage or debris. The Mayor, Chief of Police, or the Mayor's designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within three (3) days after such notice has been duly served.
- INOPERABLE VEHICLES: (Code 25-4-1) Shall mean any motor vehicle which for a period of at least seven (7) days or any greater period fixed by law, 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 operation. If the owner fails to dispose of said inoperable vehicle(s) after seven (7) days from this issuance of this notice, the police department may authorize a towing service to remove and take possession of the inoperable vehicle(s) or parts thereof.
- UNLICENSED VEHICLE: (Code 25-5-1) Any motor vehicle which is not currently licensed by the State of Illinois and which is allowed or permitted to remain unattended upon any street, alley, lot or premises within the Corporate Limits of the City for a period of time in excess of fourteen (14) days shall be deemed a nuisance.

You are required to correct the above-mentioned violation within the stated time indicated in the ordinance.

If you refuse or neglect to correct the above-mentioned violation the Chief of Police of this municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

DATE SERVED: _____

TIME SERVED: _____

Signature of person serving violation

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 2-16; 2-19 and 2-20**, 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. **(720 ILCS 5/32-5.1)**

27-2-3 **DISTURBING LAWFUL ASSEMBLIES.** It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(65 ILCS 5/11-5-2)**

27-2-4 **UNLAWFUL ASSEMBLY.** It shall be illegal for persons to assemble unlawfully in the following situations:

- (A) The use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law; or
- (B) The assembly of **two (2)** or more persons to do an unlawful act; or
- (C) The assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence. **(720 ILCS 5/25-1) (65 ILCS 5/11-5-2)**

27-2-5 DISTURBING THE PEACE. No person shall disturb the peace of any individual or private family, or of any lawful congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(65 ILCS 5/11-5-2)**

27-2-6 ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF. It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-7 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)

27-2-8 SMOKELESS TOBACCO.

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Twenty-One (21).** No person shall sell any smokeless tobacco product to any person under the age of **twenty-one (21)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **twenty-one (21)**, without charge or at a nominal cost, any smokeless tobacco product. **(720 ILCS 680-1 et seq.)**

27-2-9 UNLAWFUL CONDUCT ON A PUBLIC WAY.

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-10 AID IN ESCAPE. It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(720 ILCS 5/31-7)**

27-2-11 ESCAPES. It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(720 ILCS 5/31-6(C))**

27-2-12 **FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-13 **RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-14 **AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-15 **POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-16 **INTOXICATION IN PUBLIC.** No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(65 ILCS 5/11-5-3) [See Section 1-1-20 for Penalty]**

27-2-17 **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)**

27-2-18 **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.

27-2-19 REPLICA FIREARMS.

(A) **Defined.** Any device or object made of plastic, wood, metal, or other material which is a replica, facsimile, or toy version of, or is likely to be misidentified as a real pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, or any other firearm and shall include any movie prop, hobby model, starter pistol, air gun, pellet gun, BB gun, or any other device which might reasonably be perceived to be a real firearm.

(B) It shall be unlawful to distribute, sell, or offer to sell any replica, facsimile, or "look-alike" toy firearm or BB gun within the City unless the sale of said guns is controlled by having said guns secured in a locked case to avoid theft.

(C) It shall be unlawful to brandish in the presence of or use to intimidate others, any replica, facsimile or "look-alike" toy firearm within the City.

(D) The manufacture and sale of such toy firearms solely for subsequent transportation in intrastate, interstate, or foreign commerce, or solely for use as props in motion picture, television, and state productions, shall be exempt from the provisions of this Section.

(Ord. No. 1752; 04-20-15)

27-2-20 DISCHARGE OF FIREARMS. Except for the discharge of any firearm

or air gun in any area which was annexed into the City after **October 4, 2010**, it shall be unlawful to discharge any firearm or air gun in the City or so that the bullet, 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 any citizen to discharge a firearm when lawfully defending his personal property. **(Ord. No. 1620; 01-03-11)**

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. **(720 ILCS 505/1)**

27-2-27 **HALLOWEEN.** 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 upon the designated **two (2) days** established by the City Council. **(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. **(720 ILCS 605/1)**

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 and 720 ILCS 555/1)**

27-2-33 PUBLIC URINATION. It shall be unlawful for any individual to urinate while on public property except in a facility provided for such usage. **(Ord. No. 1458; 03-18-02)**

27-2-34 SANCTITY OF FUNERAL AND MEMORIAL SERVICES. It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates.

27-2-35 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**.

27-2-36 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.

ARTICLE III - OFFENSES AGAINST PROPERTY

27-3-1 **PETTY THEFT.** A person commits a petty theft when the value of the property is under **Three Hundred Dollars (\$300.00)** and he knowingly:

- (A) obtains or exerts unauthorized control over property of the owner; or
- (B) obtains by deception, control over property of the owner; or
- (C) obtains by threat, control over property of the owner; or
- (D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; and

- (1) intends to deprive the owner permanently of the use or benefit of the property;
- (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit;
- (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(E) It shall be unlawful to commit a petty theft.
(720 ILCS 5/16-1)

27-3-2 **CRIMINAL DAMAGE TO PROPERTY.** Any of the following acts by a person shall be a violation of this Code.

- (A) To knowingly damage any property of another without his consent; or
- (B) recklessly, by means of fire or explosive, damage property of another; or
- (C) knowingly start a fire on the land of another without his consent; or
- (D) knowingly injure a domestic animal of another without his consent; or
- (E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. **(720 ILCS 5/21-1)**

27-3-3 **CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT.** No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. **(720 ILCS 5/21-1.1)**

27-3-4 **INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric 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.

27-3-5 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the City.

27-3-6 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(720 ILCS 5/32-9)**

27-3-7 **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.

ARTICLE IV - PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 **DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE.** A person commits disorderly conduct when he knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(B) transmits in any manner to the Fire Department of any City, town, city or fire protection district, a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(C) transmits in any manner to another a false alarm to the effect that a bomb or other explosive device of any nature is concealed in such a place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive device is concealed in such a place; or

(D) transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed; or

(E) enters upon the property of another and for a lewd or unlawful purpose, deliberately looks into a dwelling on the property through any window or other opening in it;

(F) while acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(G) transmits a false report to the Department of Children and Family Services.

(720 ILCS 5/26-1)

27-4-2 **RESISTING OR OBSTRUCTING A PEACE OFFICER.** A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(See 720 ILCS Sec. 5/31-1)**

27-4-3 **REFUSING TO AID AN OFFICER.** A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

(A) apprehending a person whom the officer is authorized to apprehend; or

(B) preventing the commission by another of any offense.

(See 720 ILCS Sec. 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 (2) inches 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 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 nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(740 ILCS 115/1 et seq. and 740 ILCS 115/4)

(See also 740 ILCS 5/21-1.2 et seq.)

ARTICLE VIII – TRUANCY AND CURFEW CODE

27-8-1 **DEFINITIONS.** As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"CITY CURFEW HOURS" means the period of time specified in **Section 27-2-31** of the Chapter.

"COURT" means the 7th Judicial Circuit; Macoupin 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.** The following terms appearing in this Article shall have the definitions specified in this Section:

"GARBAGE" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings, garden plants, and other unharvested garden refuse.

"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 Act (Environmental Protection Act, **Illinois Compiled Statutes, Chapter 415, Section 5/9.1**).

"REFUSE" means any discarded matter; or any matter which is to be reduced in volume, or otherwise changed in chemical or physical properties, in order to facilitate its discard, removal or disposal.

27-9-2 **BURNING.** No person shall cause or allow open burning within the City limits except as provided herein.

27-9-3 **ALLOWED BURNING.** The following activities are not in violation of this Article unless they cause air pollution and are otherwise in violation of the City Code:

(A) The open burning of leaves, brush and other landscape waste, upon compliance with all the following terms and conditions:

- (1) On the premises on which such waste is generated; and
- (2) When atmospheric conditions will readily dissipate contaminants; and
- (3) After sunup and up to **one-half (1/2) hour** before sundown during the first **seven (7) days** of the months of January through November of each year, and during the last **ten (10) days** of November of each year, except on Thanksgiving Day and on the Friday, Saturday and Sunday immediately following Thanksgiving Day; and
- (4) If such burning does not create a visibility hazard on roadways or railroad tracks.

(Ord. No. 1664; 01-16-12)

(B) The setting of fires to combat or limit existing fires, when reasonably necessary in the judgment of the responsible government official.

(C) The burning of fuels for legitimate campfire, recreational, and cooking purposes, or in domestic fireplaces in areas where such burning is consistent with other laws, provided no garbage shall be burned in such cases.

(D) Small open flames for heating tar, for welding, acetylene torches, highway safety flares, and the like.

(E) Open burning of any other kind or nature at any times specifically authorized by the City officials.

ARTICLE X – SYNTHETIC DRUGS

27-10-1 DEFINITIONS. For purposes of this Article, the following definitions shall apply unless the context clearly indicates or requires different meaning:

(A) A product containing a synthetic alternative drug means any product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen, as those terms are defined herein such as, but not limited to, the examples of brand names or identifiers listed on Exhibit "A" attached hereto and incorporated herein.

(B) Synthetic cannabinoid means any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist, such as:

- (1) JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole)
- (2) JWH-015 ((2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone)
- (3) JWH-018 (1-pentyl-3-(1-naphthoyl)indole)
- (4) JWH-019 (1-hexyl-3-(naphthalene-1-oyl)indole)
- (5) JWH-073 (naphthalene-1-yl-(1-butylindol-3-yl)methanone)
- (6) JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone)
- (7) JWH-098 (4-methoxynaphthalen-1-yl-(1-pentyl-2-methylindol-3-yl)methanone)
- (8) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole)
- (9) JWH-164 (7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone)
- (10) JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone)
- (11) JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-yl) methanone)
- (12) JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl) methanone)
- (13) JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole)
- (14) JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole)
- (15) JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole)
- (16) HU-210 ((6aR, 10aR)-9-(Hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c]chromen-1-ol)
- (17) HU-211 ((6aS, 10aS)-9-(Hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo [c]chromen-1-ol)
- (18) HU-308 (((1R, 2R, 5R)-2-[2, 6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]07, 7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol)
- (19) HU-331 ((3-hydroxy-2-[(1R, 6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2, 5-cyclohexadiene-1, 4-dione)
- (20) CP 55,940 (2-[(1R, 2R, 5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol)
- (21) CP 47,497 (2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol) and its homologues

- (22) WIN 55,212-2 ((R)-(+)-[2, 3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de)-1, 4-benzoxazin-6-yl]-1-nepthalenylmethanone)
- (23) RCS-4 ((4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone)
- (24) RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl)ethanone)

(C) Synthetic stimulant means any compound that mimics the effects of any federally controlled Schedule I substance such a cathinone, methcathinone, MDMA and MDEA, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including salts, isomers and salts of isomer) containing substances which have a stimulant effect on the central nervous system, such as:

- (1) 3-Fluoromethcathinone
- (2) 4-Fluoromethcathinone (other name: flephedrone)
- (3) 3, 4-Methylenedioxy-methcathinone (other name: methylone, MDMC)
- (4) 3, 4-Methylenedioxypropylvalerone (other name: MDPV)
- (5) 4-Methylmethcathinon (other names: mephedrone, 4-MMC)
- (6) 4-Methoxymethcathinone (other names: methedrone, bk-PMMA, PMMC)
- (7) 4-Ethylmethcathinone (other name: 4-EMC)
- (8) Ethcathinone
- (9) Beta-keto-N-methylbenzodioxolylpropylamine (other names: butylone, bk-MBDB)
- (10) Naphthylpyrovalerone (other names: naphyrone, NRG-1)
- (11) N, N-dimethylcathinone (other name: metamfepramone)
- (12) Alpha-pyrrolidinopropiophenone (other name: alpha-PPP)
- (13) 4-methoxy-alpha;pyrrolidinopropiophenone (other name: MOPPP)
- (14) 3, 4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP)
- (15) Alpha-pyrrolidinovalerophenone (other name: alpha-PVP)
- (16) 6, 7-kihydro-5H-indeno(5,6-d)-1,3-dioxal-6-amine) (other name: MDAI)
- (17) Any compound that is structurally derived from 2-amino-1-phenyl-1-propanone by modification or substitution in any of the following ways:
 - (18) in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
 - (19) at the 3-position with an alkyl substituent;
 - (20) at the nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups;
 - (21) or by inclusion of the nitrogen atom in a cyclic structure.

(D) Synthetic psychedelic/hallucinogen means any compound that mimics the effects of any federally controlled Schedule I substance, including, but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog (including salts, isomers, esters, ethers and salts of isomers) containing substances which have a psychedelic/hallucinogenic effect on the central nervous system, such as:

- (1) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

- (2) 2-(2,5-dimethoxy-4-methylphenyl)ethanamine (2C-D);
- (3) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
- (4) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- (5) 2-(4-Ethylthio)-2, 5-dimethoxyphenyl)ethanamine(2C-T-2);
- (6) 2-(4-(Isopropylthio)-2, 5-dimethoxyphenyl)ethanamine (2C-T-4);
- (7) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- (8) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);
- (9) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

27-10-2 SALE OR DELIVERY. It shall be unlawful for any person to sell, offer for sale or deliver any produce containing a synthetic alternative drug.

27-10-3 POSSESSION. It shall be unlawful for any person to knowingly possess a product containing a synthetic alternative drug.

27-10-4 USE. It shall be unlawful for any person to be under the influence of a product containing a synthetic alternative drug.

(Ord. No. 1653; 01-03-12)

[See Section 1-1-20 for Penalty]

ARTICLE XI – SKATEBOARDS AND TOY VEHICLES

27-11-1 **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.

27-11-2 **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.

27-11-3 **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.

27-11-4 **YIELD RIGHT-OF-WAY.** Any person operating a skateboard or other toy vehicle must yield right of way to any pedestrian or motor vehicle.

27-11-5 **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.

27-11-6 **SKATEBOARDING ON PUBLIC PROPERTY.** No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of any public property.

27-11-7 **SKATEBOARDING IN THE BUSINESS DISTRICT.** No person shall operate a skateboard or toy vehicle within the City's business district.

27-11-8 **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.

27-11-9 **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.

27-11-10 **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 XII – ADULT USES REGULATED

27-12-1 **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.

27-12-2 DEFINITIONS. As used in this Article:

(A) **"Adult Oriented Business"** means an establishment as defined in the City Code.

(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-12-3 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.

27-12-4 LIMITATION. This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-12-5 ADULT ENTERTAINMENT FACILITY. It shall be unlawful within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(65 ILCS 5/11-5-1.5)**

ARTICLE XIII - OBSCENITY

27-13-1 **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)**

27-13-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D)

Affirmative Defenses.

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
 - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."

(E)

Child Falsifying Age. Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(See 65 ILCS Sec. 5/11-5-1)**

27-13-3 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 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.

"City" means the City of Carlinville, Illinois.

"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 engage din 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 round, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area or school ground.

(C) Each owner, lessor, lessee, management company or other person in control of an outdoor venue shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the outdoor venue during outdoor events.

27-14-12 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 - SYNTHETIC DRUGS

27-15-1 SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylendioxypropylvalerone, (a psychoactive drug), or cathinone derivatives.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **"Bath salts"** a substance that contains methylenedioxypropylvalerone (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).
- (5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.
- (6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (7) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.

- (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

(B) **Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

27-15-2 SALE, POSSESSION OR DELIVERY OF SYNTHETIC CANNABIS PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.

(c) knowledge may be inferred from the surrounding circumstances.

- (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
- (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (6) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
- (7) **Produce or Production.** Planting, cultivating, tending or harvesting.

(B) **Possession of Synthetic Cannabis Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

ARTICLE XVI - REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-16-1 **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.

27-16-2 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.

27-16-3 PENALTY. Any person found guilty of violating paragraphs (A) or (B) of **Section 27-16-2** 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 27-16-2** 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 27-16-2** 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.

27-16-4 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 XVII – DRUG PARAPHERNALIA

27-17-1 DEFINITIONS.

(A) "Controlled substances" are those defined and/or enumerated in the Illinois Controlled Substances Act, Chapter 720 ILCS 570/101, et seq.

(Ord. No. 1825; 06-01-20)

OFFENSES

EXHIBIT "A"

POW	K2 Blueberry	XTREME Spice
Spice Gold	Wicked X	Stinger
Swagger Grape	Shanti Spice Blueberry	Mystery
Pulse	Sativah	Bad 2 the Bone
Black Mamba	Aztec Midnight Wind Tezcatlipoca	Dragon Spice
Naughty Nights	Aztec Gold	Samurai Spirit
K2 Watermelon	Mid-Atlantic Exemplar (K2 Summit)	Buzz
Green Monkey Chronic Salvia	K Royal	Midnight Chill
Voodoo Remix	Ultra Cloud 10	Spicylicious
G Greenies Caramel Crunch	Colorado Chronic	Shanti Spice
Black Diamond	K3 Kryptonite	K3 Grape
Blueberry Hayze	Funky Monkey XXXX	K3 Strawberry
Eruption Spice	K2 Blue	K3 Blueberry
Love Strawberry	K2 Blonde	Earthquake
Voodoo Child	K2 Pink	Ocean Blue
Mid-Atlantic Exemplar	K2 Citron	G Four
K2 Summit	K2 Mellon	Wood Stock
Magic Dragon Platinum	K2 Pineapple	K3 Legal
Fire Bird Ultimate Strength Cinnamon	K2 Standard	Who Dat
Nitro	S1 S Werve	Dark Night II
Black Magic Salvia	Chronic Spice	Spike 99 Ultra
K2 Strawberry	K3 Mango	2010
Spike Maxx	K3 Original	Zombie World
Spike Diamond	Banana Cream Nuke	SYN Swagg
Spike Silver	K4 Silver	SYN Smooth

K2 Pineapple Express	K4 Gold	K2 Orisha Super
K2 Ultra	K3 Heaven Improved	K2 Amazonian Shelter
MNGB Tropical Thunder	K3 Heaven Legal	K2 Solid Sex on the Mountain
MNGB Pinata Colada	K3 Sun Legal	Unknown cigarette
MNGB Almond/Vanilla	K3 Sun Improved	Freedom
MNGB Peppermint	K3 XXX	K2 Sex
MNGB Spear Mint	K3 Cosmic Blend	K2 Orisha White Magic Super
p.e.p. pourri Twisted Vanilla	K3 Original	K2 Orisha Black Magic Max
p.e.p. pourri Original Spearmint	C4	K2 Thai Dream
p.e.p. pourri Love Strawberry	K1 Gravity	K4 Bubble Bubble
p.e.p. pourri X Blueberry	K1 Orbit	MTN-787
Voo Doo Remix (orange package)	K2 Pina Colada	K2 Kryptonite
Voo Doo Remix (black package)	Rasta Citrus Spice	Legal Eagle Apple Pie
SYN Spearmint	Kind Spice	K4 Purple Haze
SYN Spearmint #2	Time Warp	K4 Summit Remix
SYN Chill	Pink Tiger	8-Ball
SYN Suave	Humboldt Gold	K2
Heavenscent Suave	K2 Orisha Regular	Tribal Warrior
SYN Vanilla	K2 Orisha Max	Spike 99
SYN Vanilla #2	Magic Spice	exSES
SYN Lemon Lime	Voodoo Magic	Spice Silver
SYN Lemon Lime #2	Texas Gold	Spice Diamond
New K3 Improved	Demon	SYN Incense Smooth
C4 Herbal Incense	K3	SYN Incense Spearmint
New Improved K3 Cosmic Blend	K2 Pink Panties	SYN Incense LemonLime
New Improved K3 Dynamite	Heaven Improved	Super Summit
New Improved K3 Kryptonite	K3 Sun	D-Rail
Utopia	K3 Dusk	K2 Peach
Utopia Blueberry	K3 Original Improved	Funky Monkey
Euphoria	New K3 Heaven	K2 Summit Coffee Wonk
Who Dat Herbal Incense	New K3 Earth	K3 Legal – Original (Black)

Love Potion 69	New K3 Sea Improved	K3 Legal – Sun (Black)
Legal Eagle	New-Kron Bomb	K3 Legal – Sea (silver)
Super Kush	Cherry Bomb	K3 Legal – Earth (silver)
Bayou Blaster	Rebel Spice	K2 Cloud 9
Paradise	Mega Bomb	Greenies Strawberry
Red Bird	Mr. Smiley's	K2 (unknown variety)
Yucatan Fire	Summer Skyy	Space
Smoke	Moe Joe Fire	K2 Latte
Skunk	Fully Loaded	K2 Mint
Sence	Da Block	K2 Silver
EX-SES Platinum Blueberry	Back Draft	Spike Gold
EX-SES Platinum Cherry	K1 Orbit	Jamaican Gold
EX-SES Platinum Strawberry	K1 Gravity	Potpourri
EX-SES Platinum Vanilla	C3	Winter Boost
Magic Silver	Cill Out	Citrus
Spice Artic Synergy	Forest Humus	Spice Gold
Spice Tropical Synergy	Scope Vanilla	Spicey XXX
Spicey Regular XXX Blueberry	Scope Wildberry	Ex-SES Platinum
Spicey Regular XXX Strawberry	Chill X	Dream
Spicey Ultra Strong XXX Vanilla	Silent Black	Smoke Plus
Spicey Ultra Strong XXX Strawberry	Caneff	Diamond Spirit
Spike 99 Ultra Blueberry	Gold Spirit Spice	Mojo
Spike 99 Ultra Cherry	Magic Gold	Genie
Spike 99 Ultra Strawberry	Spice Diamond	Spike 99
	Bombay Blue	Potpourri Gold

CHAPTER 28 - PARKS

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CHAPTER 28

PARKS

ARTICLE I - REGULATIONS

28-1-1 **DESTRUCTION OF PARK PROPERTY.** Within the municipal parks, no person except park personnel on official business shall:

- (A) cut, break, injure, destroy, take, or remove any tree, shrub, timber, plant, or natural object;
- (B) kill, cause to be killed, or pursue with intent to kill any bird or animal except in areas where the Village has authorized hunting;
- (C) willfully mutilate, injure or destroy any building, bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument, or other park property or appurtenances.

28-1-2 **LITTERING - WATER POLLUTION.**

(A) No person shall deposit any trash within the municipal parks except in proper receptacles where these are provided. Where receptacles are not provided, all trash shall be carried away from the parks by the person responsible for its presence and shall be properly disposed of elsewhere.

(B) No person shall discharge or otherwise place or cause to be placed in the waters of any fountain, lake, stream, or other body of water in or adjacent to any park or in any tributary, stream, storm sewer or drain flowing into such waters any substance or thing, liquid or solid which will or may result in the pollution of the waters.

28-1-3 **FIRES IN PARKS.**

(A) No person shall light or use any unenclosed picnic fire within the municipal parks. Fires may be built only in fireplaces or on grills constructed for that purpose in designated areas.

(B) In camping areas, no person shall leave any campfire unattended by a competent person.

(C) Every person who has lighted or used any fire in a municipal park shall extinguish such fire before leaving the park.

28-1-4 **PICNICS.** No person shall picnic in the municipal parks except in areas designated for that purpose. Park personnel are hereby authorized to regulate the activities in such areas when necessary to prevent congestion or to secure the maximum use, comfort, and convenience of all. Visitors shall comply with any directions given to achieve this end.

28-1-5 **ERECTION OF STRUCTURES.** No person shall build or place any tent, building, booth, stand, or other structure in or upon any municipal park or other recreational facility unless he has obtained a permit to do so from the Village.

28-1-6 **SIGNS.** No person shall place within any municipal park or affix to any object therein any sign or device designated to advertise any business, profession, exhibition, event or thing unless he has obtained a permit to do so from the Village.

28-1-7 **ANIMALS.** No person shall:
(A) bring any dangerous animal into any municipal park; or
(B) permit any dog to be in any park unless such dog is on a leash; or
(C) ride or lead any horse in any municipal park or recreational area except upon paths or other ways expressly provided and posted for that purpose.

28-1-8 **MOTOR VEHICLES PROHIBITED.** No person other than municipal personnel on official business shall drive or park any motor vehicle, including snowmobiles, in any municipal park except on a roadway or parking lot.

28-1-9 **SALES; AMUSEMENTS FOR GAIN.** Within the parks of this Municipality, no person shall, without having first obtained permission from the City or Park Board:

- (A) sell or offer for sale any goods or services; or
- (B) conduct any amusement for gain or for which a charge is made.

28-1-10 **HOURS.** The Park Board shall establish the hours of operation of the municipal parks.

CHAPTER 29 – PROPERTY MAINTENANCE CODE

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CHAPTER 29

PROPERTY MAINTENANCE CODE

ARTICLE I – GENERAL PROVISIONS

29-1-1 **TITLE: PURPOSE.**

(A) These regulations shall be known as the "Property Maintenance Code" hereinafter referred to as the "Property Maintenance Code" or "This Code".

(B) This Code is to establish minimum acceptable standards, premises, and facilities in the City, which must be maintained in existing buildings, structures, premises, and facilities to protect health, safety, and general welfare.

29-1-2 **DEFINITIONS.** As used in this Code, the following definitions shall

apply:

"PUBLIC NUISANCE". Includes the following:

(A) The physical condition, or use of any premises regarded as a public nuisance at common law; or

(B) Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or

(C) Any premises which have unsanitary sewerage or plumbing facilities; or

(D) Any premises designated as unsafe for human habitation or use; or

(E) Any premises which are manifestly capable of being a fire hazard, or are manifestly unsafe or insecure as to endanger life, limb or property; or

(F) Any premises from which the plumbing, heating and/or facilities required by this Code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided; or

(G) Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or

(H) Any structure or building that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure and is dangerous to anyone on or near the premises.

"SANITARY". Rules and conditions of health; especially, of absence of dirt and agents of infection or tending to promote health and healthful conditions.

ARTICLE II - PREMISES CONDITIONS

29-2-1 **SCOPE OF REGULATIONS.** The provisions of this Article shall govern the minimum conditions for maintenance of exterior property, premises, and structures. Premises shall comply with the conditions herein prescribed insofar as they are applicable.

29-2-2 **RESPONSIBILITY OF OWNER.** The owner of the premises shall maintain such structures and premises in compliance with these requirements. A person shall not occupy as owner-occupant or let to another for occupancy or use permits which do not comply with the requirements of this Article.

29-2-3 **VACANT STRUCTURES AND LAND.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

29-2-4 **SANITATION.** All exterior property areas and premises shall be maintained in a clean, safe, and sanitary condition free from any accumulation of rubbish or garbage.

29-2-5 **INSECT AND RAT CONTROL.** An owner of a structure or property shall be responsible for the extermination of insects, rats, vermin, or other pests in all areas of the premises, except that the occupant shall be responsible for such extermination in the areas of the premises of a single-family dwelling. Whenever infestation exists in the shared or public parts of the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.

ARTICLE III - RESPONSIBILITIES OF PERSONS

29-3-1 **GENERAL.** The provisions of this Article shall govern the responsibilities of persons for the maintenance of structures, and the equipment and premises thereof. The owner has the ultimate legal responsibility to comply with this Section.

29-3-2 **SANITARY CONDITION.**

(A) **Cleanliness.** Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof which that occupant occupies, controls, or uses in a clean and sanitary condition. Every owner of a dwelling containing **two (2)** or more dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.

(B) **Disposal of Rubbish.** Every occupant of a structure or part thereof shall dispose of all rubbish in a clean and sanitary manner.

(C) **Disposal of Garbage.** Every occupant of a structure or part thereof shall dispose of garbage in a clean and sanitary manner.

29-3-3 **EXTERMINATION.**

(A) **Owner.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

(B) **Multiple Occupancy.** Every owner, agent, or operator of **two (2)** or more dwelling units or multiple occupancies, or nonresidential structures and rooming houses, shall be responsible for the extermination of any insects, rats or others in the public or shared areas of the structure and premises.

CHAPTER 30 - PUBLIC SAFETY

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CHAPTER 30

PUBLIC SAFETY

ARTICLE I – LOCAL STATE OF EMERGENCY

30-1-1 **DEFINITIONS.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(A) **Emergency.**

- (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by **three (3)** or more persons acting together without authority of law; or
- (2) Any natural disaster, epidemic, or man-made calamity, including outbreak of disease, flood, conflagration, cyclone, tornado, earthquake or explosion, or eminent threat of any of those events within the corporate limits of the City, resulting in or threatening 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.

(B) **Curfew.** A prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City except officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 **DECLARATION.** Whenever an emergency, as defined in **Section 30-1-1(A)** exists, the Mayor is authorized to declare the existence of a Local State of Emergency by means of a written *declaration* of the Mayor, under oath, setting forth the facts which constitute the emergency, describing the nature of the emergency and declaring that a Local State of Emergency exists in accordance with the definitions set forth in this Section. This declaration must be filed with the City Clerk as soon as practicable after issuance.

30-1-3 **CURFEW AUTHORIZED.** After proclamation of a Local State of Emergency by the Mayor he or she may order a general curfew applicable to such geographical areas of the City or to the City as a whole, as he or she deems reasonable and advisable, and applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare.

30-1-4 **ORDERS AUTHORIZED.** After the proclamation of a Local State of Emergency, the Mayor may also, in the interest of public safety and welfare, and to address this issue caused threatened by the emergency, may take any or all of the following actions by executive order during the state of emergency.

- (A) All actions reasonably necessary to respond to the emergency;

(B) Approve previously appropriated expenditures of the City for the purpose of continuing the operations of the City; and

(C) In the event the Local State of Emergency extends beyond the current fiscal year and a new budget has not been approved, the Mayor shall be authorized to approve new spending by the City during the existence of the Local State of Emergency.

(D) 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.

(E) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(F) Order the discontinuance of selling, distributing or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(G) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

30-1-5 **DURATION.** The declaration herein authorized shall be effective for a period of **fourteen (14) days** or until the adjournment of the next regular or special meeting of the City Council, whichever comes first, unless sooner terminated by a proclamation of the Mayor, or, his or her interim emergency successor, indicating that the civil emergency no longer exists. The Mayor or his or her interim emergency successor, shall have the power to reproclaim the existence of an emergency at the end of each **fourteen (14) day** period during the time said emergency exists.

30-1-6 **NOTICE.** Upon issuing the proclamation herein authorized, the City Clerk shall notify the news media situated within the City, and shall cause **four (4) copies** of the proclamation *declaring* the existence of the emergency and any curfew to be posted at the following places within the City:

- (A) The City Hall.
- (B) The Police Station.
- (C) The Post Office.
- (D) In the area of any curfew.

30-1-7 **VIOLATIONS.** Any person violating the provisions of this Section or executive orders issued pursuant hereto shall be guilty of an offense against the City and shall be punished as provided by **Section 1-1-20** of the City Code.

30-1-8 **EFFECT ON OTHER ORDINANCES.** Nothing contained in this Section shall be construed to impair the powers contained in this Code, giving powers to the Police and Fire Departments, but shall be construed together with existing ordinances now in effect for the safety and welfare of the citizens of the City.

(65 ILCS 5/11-1-6)

(Ord. No. 1820; 04-06-20)

ARTICLE II - POLICE DEPARTMENT

DIVISION I - POLICE

30-2-1 **DEPARTMENT ESTABLISHED.** There is hereby established a department of the municipal government of the City which shall be known as the Police Department. The Police Department shall consist of the Chief of Police and of such number of lieutenants, sergeants, and police officers as may be provided from time to time by the City Council.

30-2-2 **OFFICE OF CHIEF CREATED.** There is hereby established the office of the Chief of Police. The Chief of Police shall be appointed by the Mayor with the advice and consent of the City Council for a **one (1) year** term at the first regular meeting in May.

30-2-3 **DUTIES OF CHIEF.** The Chief of Police shall keep records and make reports concerning the activities of his department as may be required. The Chief shall be responsible for the performance of the Police Department, of all its functions, and all persons who are members of the department shall serve subject to the orders of the Chief of Police.

30-2-4 **APPOINTMENT OF PATROLMEN.** A sufficient number of police officers shall be appointed by the Board of Police Commissioners. **(See Ch. 4 of the Revised Code)**

30-2-5 **RIGHT TO ENTER PREMISES.** Any Police Officer shall have power, upon reasonable ground of suspicion, to enter peaceably, or, if refused or resisted after demand made, by force, any house or other premises in which any person may be suspected to be, for unlawful purposes and may arrest without process any person who may be found therein, guilty, or reasonably supposed to be guilty of any criminal act, and detain him in custody, as in other cases, until he can be brought before the proper court.

30-2-6 **DUTIES.** The policeman shall devote his entire time to the performance of the duties of his office and is hereby charged with the preservation of the peace, order and safety of the City and with the duty of protecting the rights of persons and property and of enforcing all laws and also all orders of the City Council. He shall take notice of all nuisances, obstructions and defects on the highways or other public places, and shall cause the same to be abated or removed, or immediate notice thereof given to the proper officer whose duty it may be to take action in relation thereto. When requested by the Mayor he shall attend, either in person or by deputy, all meetings of the City Council, execute all its orders and close the Council Chamber upon the adjournment of that body. He shall also execute all warrants or other legal process required to be executed by him under any ordinance of the City or laws of the State of Illinois.

30-2-7 **MUTUAL AID CONTRACT.** The Police Department, with the approval of the City Council, may enter into an agreement to provide police protection to neighboring municipalities.

30-2-8 **LEGAL PROCESSES.** All police shall have the power and authority to execute City warrants or other similar legal processes outside the corporate limits of the City and within such distance therefrom as authorized by law in all cases when any ordinance of the City Council made pursuant to law shall prescribe a penalty for the violation of any of its provisions by persons residing, acting or doing any business within the limits of the City.

30-2-9 **ASSISTING POLICE OFFICER.** Every police officer of the City may, at any time, call upon any able-bodied person(s) above the age of **eighteen (18) years** to aid him in the arresting, retaking or holding in custody of any person guilty of having committed any unlawful act or charged therewith, or to aid such officer in preventing the commission of any unlawful act.

30-2-10 **AIDING FIRE DEPARTMENT.** Every police officer shall aid the fire department by giving the alarm in case of fire and in clearing the streets or grounds in the immediate vicinity of any fire so that the firemen shall not be hindered or obstructed in the performance of their duties.

30-2-11 **AIDING IN ESCAPE.** It shall be unlawful for any person in this City to resist or obstruct any member of the Police Force in the discharge of his duty or to endeavor to do so, in any manner, assist any person in the custody of any member of the Police Department to escape or to attempt to escape from such custody or to attempt to rescue any such person in custody.

30-2-12 **USE OF INTOXICATING LIQUOR.** No member on an active tour of duty or while wearing the official policeman's badge of the City shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

30-2-13 **RULES AND REGULATIONS.** The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable and such rules, when approved by the Mayor, shall be binding on such members.

30-2-14 **TRAINING.** All full-time policemen, prior to entering upon any of their duties, shall receive a course of training in the use of weapons and other police procedures by the proper authorities as established by the State of Illinois. Such courses of training shall not

be less than **forty (40) hours** in duration. Upon completion of the course of training, the applicant shall file with the Mayor a certificate attesting to the completion of said courses. **(50 ILCS 705/1 et seq.) (50 ILCS 710/2)**

30-2-15 **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the City.

30-2-16 **POLICE MANUAL.** The rules, regulations and procedures set forth in the "Standard Operating Procedures Manual of the Carlinville Police Department" are hereby adopted by reference. **(10-19-92)**

30-2-17 **SPECIAL EVENTS.**

(A) **Police Protection Not Available.** it is hereby determined that, due to the limited manpower of the Police Department, it is the policy of the City not to provide police protection or security by regular police officers for special events in the City, other than for routine patrol and operation.

(B) **Expense of Protection.** Upon request to the Chief of Police by an organization/individual sponsoring a special event, the Chief of Police may assign special police for the protection/security of the special event at the expense of the special event sponsor.

(C) **State Highway Use.** In the event a state highway is involved in the special event, the City will provide regular police protection/security for the special event. **(11-16-92)**

30-2-18 - 30-2-29 **RESERVED.**

DIVISION II - AUXILIARY POLICE

30-2-30 **APPOINTMENT.** The Mayor is hereby authorized to appoint auxiliary policemen as employees, subject to the advice and consent of the City Council. No person shall be appointed as an auxiliary policeman if he has been convicted of a felony or other crime involving moral turpitude. All appointees shall be at least **twenty-one (21) years** of age. The appointees of any or all auxiliary policemen may be terminated by the Mayor subject to the advice and consent of the City Council.

30-2-31 **NOT MEMBERS OF POLICE DEPARTMENT.** Auxiliary policemen shall not be members of the Regular Police Department and shall be residents of the City. Auxiliary policemen shall, at all times during the performance of their duties, be subject to the direction and control of the Chief of Police.

30-2-32 **POWERS AND DUTIES.** Auxiliary policemen shall have the following powers and duties, when properly assigned and on duty:

- (A) To aid or direct traffic in the municipality.
- (B) To aid in control of natural or man-made disasters.
- (C) To aid in case of civil disorder.
- (D) To perform normal and regular police duties when assigned by the Chief of Police on occasions when it is impractical for members of the regular Police Department to perform normal and regular duties.
- (E) 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.
- (F) To commit arrested persons for examination.
- (G) If necessary, to detain arrested persons in custody overnight or Sunday in any safe place or until they can be brought before the proper magistrate.
- (H) To exercise all other powers as conservators of the peace that the corporate authorities may prescribe.
- (I) To serve and execute all warrants for the violation of municipal ordinances, or the State Criminal Law, within the corporate limits of the City, and also on any property owned and controlled by the City beyond its corporate limits and for this purpose, to have all the common law and statutory power of full-time policemen of the City.

30-2-33 **FIREARMS PROHIBITED.** Auxiliary policemen shall only carry firearms when in uniform and in the performance of their duties.

30-2-34 **TRAINING.** Prior to entering upon any of their duties, auxiliary policemen shall receive a course of training in the use of weapons and other police procedure by the Chief of Police or through a course of training designated by him. Such course of training shall be not less than **forty (40) hours** in duration. Upon completion of the course of training, the Chief of Police shall file a certificate attesting to the auxiliary policeman's completion of the course with the City Clerk. **(See 50 ILCS Sec. 710/2 for option.)**

30-2-35 **COMPENSATION.** Auxiliary policemen shall receive compensation as provided by the City Council. **(See 65 ILCS Sec. 5/3-6-5)**

30-2-36 **MABAS AGREEMENT.** The Mayor and the Clerk be and are hereby authorized to execute an Agreement for participation in the Mutual Aid Box Alarm System, a copy of said Agreement being attached hereto and being made a part thereof. **(Ord. No. 1494; 05-03-04)**

30-2-37 - 30-2-39 **RESERVED.**

DIVISION III – PART-TIME POLICE

30-2-40 **PART-TIME POLICE.**

(A) **Employment.** The City may employ part-time police officers from time to time as they deem necessary. The Mayor is authorized to appoint part-time police officers, subject to the advice and consent of the City Council.

(B) **Duties.** A part-time police officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the General Order of the Police Department, but the number of hours a part-time officer may work within a calendar year is restricted. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (50 ILCS 705/1 et seq.) and the rules and requirements of the ILETSB.

(C) **Hiring Standards.** Any person employed as a part-time police officer must meet the following standards:

- (1) be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
- (2) be at least **twenty-one (21) years** of age.
- (3) pass a medical examination.
- (4) possess a high school diploma or GED certificate.
- (5) possess a valid State of Illinois driver's license.
- (6) possess no prior felony convictions.
- (7) any individual who has served in the U.S. military must have been honorable discharged.

(D) **Discipline.** Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time police officers serve at the discretion of the City authorities, shall not have any property rights in said employment, and may be removed by the City authorities at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Police Department. Part-time officers are not entitled to any pension or insurance benefits.

(Ord. No. 1663; 05-07-12)

30-2-41 **HIRING STANDARDS.**

(A) All police officers, other than those officers who shall be employed on a full-time basis, shall be qualified to enter and successfully complete any training mandated by the Illinois Law Enforcement Standards Board.

(B) The aforesaid hiring standard, particularly with respect to part-time police officers employed by the City shall be submitted to the Illinois Law Enforcement Training Standards Board, as required by statute.

(Ord. No. 1614; 09-20-10)

ARTICLE III - EMERGENCY MANAGEMENT AGENCY (EMA)

30-3-1 POLICY AND PROCEDURES.

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal emergency management agency;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter (**65 ILCS Sec. 5/11-1-6**).
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency management operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-3-2 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.

30-3-3 **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.

30-3-4 **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.

30-3-5 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.

30-3-6 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.

30-3-7 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.

30-3-8 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.

30-3-9 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 30-3-3** 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.

30-3-10 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.

30-3-11 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.

30-3-12 PROFESSIONS, TRADES AND OCCUPATIONS. If such disaster as is described in **Section 30-3-3** 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.

30-3-13 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.

30-3-14 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.

30-3-15 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 30-3-7**, 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.

30-3-16 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.

30-3-17 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.

30-3-18 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.

30-3-19 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.

30-3-20 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.

30-3-21 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."

30-3-22 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 30-3-7(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.

30-3-23 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.)

ARTICLE IV – AMBULANCE

30-4-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Advanced Life Support (ALS). A level of ambulance service as described by the Illinois EMS Act.

Applicant. An owner/operator of an ambulance company.

Approving Authority. The City Council with consideration of the recommendation of the Public Safety Committee.

Jurisdiction.

(A) Legal authority to operate or function.

(B) Boundaries of a legally constituted entity.

Permit. Written permission from the authority having jurisdiction for an ambulance operator to be dispatched.

30-4-2 **INITIAL PERMIT.**

(A) Any operator of an ambulance company that desires to operate in the City limits shall first obtain a permit. In order to obtain a permit, the ambulance company must meet the minimum requirements outlined in this Article.

(B) The operator must provide the City with all required information. The operator may not provide service within the City until such time as the City Council approves the application for a permit.

(C) The approving authority for purposes of enforcement of ordinances, rules and regulations relating to ambulance services in the City shall be the City Council with the consideration of the recommendation of the Public Safety Committee.

(D) In applying for and obtaining the permit required herein, the owner/operator of the ambulance service agrees to provide a **ninety (90) day** notice to the City prior to terminating its ambulance service within the City.

30-4-3 **PERMIT REQUIREMENTS.**

(A) The following minimum requirements shall be met by the operator prior to the issuance of a permit:

- (1) The applicant shall provide the name and address of the applicant and the owner of the ambulance;
- (2) The applicant shall provide all the names under which the applicant plans to conduct business;
- (3) The applicant shall provide a description of each ambulance to include:
 - (a) Make;
 - (b) Model;
 - (c) Year of manufacture;
 - (d) Current state license number;
- (4) The applicant shall provide the locations of any facilities which the applicant intends to use as part of its business operation;

- (5) The applicant must provide copies of all licenses/certifications required by the State of Illinois to operate an ambulance service;
- (6) The applicants must have sufficient equipment to provide a minimum **two (2) ambulances** in good operating condition **twenty-four (24) hours** per day **seven (7) days** per week (not counting ambulances contracted for special events) manned to meet the minimum requirements for advance life support service as set forth under the E.M.S. Act;
- (7) The payment of a permit fee of **Five Hundred Dollars (\$500.00)** shall be refunded to the applicant if the ambulance permit is denied.
- (8) The applicant shall provide such other operational information that may be requested by the City.

30-4-4 OPERATIONAL REQUIREMENTS.

(A) It has been determined that the City requires **two (2) ambulances**. Each company shall provide a minimum number of ALS ambulances to meet the mandatory total of **two (2)** for the City, except when on emergency calls within the City or Macoupin County, Illinois. In the event the number of operators decreases, the remaining operators shall increase their minimum number of ALS ambulances available for response to a medical emergency to meet minimum requirements.

(B) In the event an operator uses all or part of their required resources during a special event, they shall also provide proof of coverage from another operator to demonstrate compliance with this Article.

30-4-5 LIABILITY INSURANCE REQUIREMENT.

(A) No permit shall be issued under this Article, nor shall such permit be valid after issuance, nor shall any ambulance be allowed to participate in the City unless there is at all times in force and effect minimum insurance coverage as required by the State of Illinois for medical carriers. The City shall be named as an additional insured.

(B) Such insurance policies shall be submitted to the approving authority for approval prior to the issuance of each permit. Satisfactory evidence that such insurance is in force and effect shall be furnished to the approving authority, in such form as he may specify, by all operators required to provide such insurance under the provisions of this Article.

(C) Every insurance policy shall contain a provision for a continuing liability hereunder to the full amount thereof, notwithstanding any recovery thereon, that the liability of the insurer shall not be affected by the insolvency or the bankruptcy of the insured, and that until the policy is revoked, the insurance company will not be relieved from liability on account of nonpayment of premium, failure to renew permit at the end of the year, or any act or omission of the named insured.

(D) Every insurance policy shall extend for the period to be covered by the permit applied for an insurer shall be obligated to give not less than **sixty (60) days** written notice to the approving authority and to the insured before any cancellation or termination of the policy earlier than its expiration date. The cancellation or other termination of any such policy shall automatically revoke and terminate the permit issued for the ambulances covered by such policy, unless another insurance policy complying with the provisions of this Section shall be provided and be in effect.

30-4-6 MAINTENANCE AND CONTENTS OF RECORDS.

(A) Each operator that receives a permit shall maintain accurate records for all calls received requesting ambulance service through the City, or through other sources. Such records shall include the calls for service received within the City, the number of cancelled calls, the identification number of the ambulance, the names of the attendants responding, the response time from when the call is received by the operator until the arrival at the scene, the time of departure from the scene and arrival at a hospital or other destination, and whether or not emergency warning devices were used.

(B) The records that reflect response times in subsection (A) shall be available to the City on a requested basis either in hard copy or other media.

(C) The City shall have the right to inspect, at any time during normal business hours, records the operator has maintained as required herein.

30-4-7 RATES. The rates of ambulance service shall be determined by the operator. Such rates may be changed from time to time by the operator of the ambulance service.

30-4-8 PENALTY FOR VIOLATION OF ARTICLE. Any person violating or failing to comply with the provisions of this Article shall be fined an amount not less than **Two Hundred Fifty Dollars (\$250.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day that any violation of, or failure to comply with this Article is committed or permitted to continue shall constitute a separate distinct offense.

(Ord. No. 1734; 10-20-14)

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 Street Superintendent or a designated representative and the employees.

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 **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 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.

33-2-3 **STAIRWAY - RAILING.** Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk.

33-2-4 **CLOSING STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor or Superintendent of Streets 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.

33-2-5 **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)**

33-2-6 **VEHICLES AND SKATEBOARDS ON SIDEWALKS.** No person shall operate any skateboard, bicycle, roller blades, scooter or motorized vehicle of any nature on or over the sidewalks around the square, the sidewalks for **one (1) block** in all directions leading off of the square, and the sidewalks on both sides of West Main Street from the square to the railroad tracks located to the West of the Shipman Blacktop. **(Ord. No. 1344; 08-05-96)**

33-2-7 **DEPOSITS ON SIDEWALKS.** 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.

33-2-8 **OBSTRUCTING STREET.**
(A) No person shall place, deposit or cause the placement of any leaves, grass, weeds, yard waste, waste material, garbage, debris or other material onto any street or public ground in the City, without the permission of the City. **(Ord. No. 1601; 01-04-10)**
(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)**

33-2-9 **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.

33-2-10 **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)**

33-2-11 MERCHANDISE ON PUBLIC STREET. It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the City Council. **(65 ILCS 5/11-80-3)**

33-2-12 ENCROACHMENTS. It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-13 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.

33-2-14 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.

33-2-15 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.

33-2-16 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 **six (6) feet** above the level of such public place.

33-2-17 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. **(See Section 27-9-3)**

33-2-18 **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 Street Superintendent and shall be referred by him to the City Council. All trees and shrubs so planted shall be placed subject to the directions and approval of the City Council.

33-3-2 **PLANTING TREES IN RIGHT-OF-WAY.** (Repealed by Ord. No. 1449)

33-3-3 **REMOVAL.** It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any street, parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the City Council before permission shall be granted.

33-3-4 **INJURY.** It shall be unlawful to injure any tree or shrub planted in such public place.

33-3-5 **ADVERTISEMENTS OR NOTICES.** It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway, or other public place.

33-3-6 **DANGEROUS TREES.** Any tree or shrub which overhangs any sidewalk, street or other public place in the municipality at a height less than **eight (8) feet** or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.

Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

The Street Superintendent may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.

33-3-7 **WIRES.** It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the City Council.

Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Street Superintendent so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct.

33-3-8 **GAS PIPES.** Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs. **(See 1966 Code, Ch. 4; Title 8)**

ARTICLE IV - CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

33-4-1 **PURPOSE AND SCOPE.**

(A) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

(B) **Intent.** In enacting this Article, the City intends to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
- (5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
- (6) preserve the character of the neighborhoods in which facilities are installed;
- (7) preserve open space, particularly the tree-lined parkways that characterize the City's residential neighborhoods;
- (8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
- (9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(C) **Facilities Subject to this Article.** This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

(D) **Franchises, Licenses, or Similar Agreements.** The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Article.

(E) **Effect of Franchises, Licenses, or Similar Agreements.**

- (1) **Utilities Other Than Telecommunications Providers.** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control

during the term of such agreement and any lawful renewal or extension thereof.

- (2) **Telecommunications Providers.** In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(F) **Conflicts With Other Articles or Chapters.** This Article supersedes all Articles or Chapters or parts of Articles or Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(G) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(H) **Sound Engineering Judgment.** The City shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

33-4-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

"AASHTO": American Association of State Highway and Transportation Officials.

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

"Backfill": The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring": To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable Operator": That term as defined in 47 U.S.C. 522(5).

"Cable Service": That term as defined in 47 U.S.C. 522(6).

"Cable System": That term as defined in 47 U.S.C. 522(7).

"Carrier Pipe": The pipe enclosing the liquid, gas or slurry to be transported.

"Casing": A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"City": The City of Carlinville.

"Clear Zone": The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

"Coating": Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Conductor": Wire carrying electric current.

"Conduit": A casing or encasement for wires or cables.

"Construction" or "Construct": The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

"Cover": The depth of earth or backfill over buried utility pipe or conductor.

"Crossing Facility": A facility that crosses one or more right-of-way lines of a right-of-way.

"Disrupt the Right-of-Way": For the purposes of this Article, any work that obstructs the right-of-way or causes a material adverse affect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

"Emergency": Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

"Encasement": Provision of a protective casing.

"Engineer": The City Engineer or his or her designee.

"Equipment": Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation": The making of a hole or cavity by removing material, or laying bare by digging.

"Extra Heavy Pipe": Pipe meeting ASTM standards for this pipe designation.

"Facility": All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term "facility" shall not include any facility owned or operated by the City.

"Freestanding Facility": A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road": Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

"Hazardous Materials": Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the City Engineer or Superintendent of Public Works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

"Highway Code": The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

"Highway": A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. "Highway" includes all highway land and improvements,

including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

"Holder": A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

"Jacking": Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting": Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use": The use of pole lines, trenches or other facilities by two or more utilities.

"J.U.L.I.E.": The Joint Utility Locating Information for Excavators utility notification program.

"Major Intersection": The intersection of two or more major arterial highways.

"Occupancy": The presence of facilities on, over or under right-of-way.

"Parallel Facility": A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Parkway": Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut": The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee": That entity to which a permit has been issued pursuant to **Sections 33-4-4 and 33-4-5** of this Article.

"Practicable": That which is performable, feasible or possible, rather than that which is simply convenient.

"Pressure": The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

"Petroleum Products Pipelines": Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

"Prompt": That which is done within a period of time specified by the City. If no time period is specified, the period shall be **thirty (30) days**.

"Public Entity": A legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Restoration": The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

"Right-of-Way" or "Rights-of-Way": Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. "Right-of-way" or "rights-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

"Roadway": That part of the highway that includes the pavement and shoulders.

"Sale of Telecommunications at Retail": The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such

corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

"Security Fund": That amount of security required pursuant to **Section 33-4-10**.

"Shoulder": A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

"Sound Engineering Judgment": A decision(s) consistent with generally accepted engineering principles, practices and experience.

"Superintendent of Public Works": The Superintendent of Public Works or his or her designee, hereinafter referred to as "Superintendent".

"Telecommunications": This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

"Telecommunications Provider": Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

"Telecommunications Retailer": Means and includes every person engaged in making sales of telecommunication at retail as defined herein.

"Trench": A relatively narrow open excavation for the installation of an underground facility.

"Utility": The individual or entity owning or operating any facility as defined in this Article.

"Vent": A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Video Service": That term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

"Water Lines": Pipelines carrying raw or potable water.

"Wet Boring": Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

33-4-3 ANNUAL REGISTRATION REQUIRED. Every utility that occupies right-of-way within the City shall register on **January 1** of each year with the Superintendent, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-4-8** of this Article, in the form of a certificate of insurance.

33-4-4 PERMIT REQUIRED; APPLICATIONS AND FEES.

(A) **Permit Required.** No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any City right-of-way which:

- (1) changes the location of the facility;
- (2) adds a new facility;
- (3) disrupts the right-of-way (as defined in this Article), or
- (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Superintendent and obtaining a permit from the City therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(C) **Minimum General Application Requirements.** The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- (1) The utility's name and address and telephone and telecopy numbers;
- (2) The applicant's name and address, if different than the utility, its telephone, telecopy number, e-mail address, and its interest in the work;
- (3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.
- (4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- (5) Evidence that the utility has placed on file with the City:
 - (a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices,

to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and

- (b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;
- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- (7) Evidence of insurance as required in **Section 33-4-8** of this Article;
- (8) Evidence of posting of the security fund as required in **Section 33-4-10** of this Article;
- (9) Any request for a variance from one or more provisions of this Article (**See Section 33-4-21**); and
- (10) Such additional information as may be reasonably required by the City.

(D) **Supplemental Application Requirements for Specific Types of**

Utilities. In addition to the requirements of paragraph (C) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- (1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control have been satisfied; or
- (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(E) **Applicant's Duty to Update Information.** Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within **thirty (30) days** after the change necessitating the amendment.

(F) **Application Fees.** Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a base fee in the amount of \$100.00. Additional application review costs will vary with the complexity of the project and will be determined on a case by case basis and shall be paid prior to issuance of final permit. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

33-4-5 ACTION ON PERMIT APPLICATIONS.

(A) **City Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Superintendent within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall reject such application in writing, stating the reasons therefor. If the Superintendent is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Superintendent, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

(B) **Additional City Review of Applications of Telecommunications Retailers.**

- (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than **ten (10) days** prior to the commencement of work requiring no excavation and not less than **thirty (30) days** prior to the commencement of work requiring excavation. The Superintendent shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.
- (2) In the event that the Superintendent fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) days** after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.

- (3) Upon the provision of such specification by the City, where a permit is required for work pursuant to **Section 33-4-4** of this Article the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of paragraph (A) of this Section.

(C) **Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007.** Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted **forty-five (45) days** after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances, and regulations.

33-4-6 EFFECT OF PERMIT.

(A) **Authority Granted; No Property Right or Other Interest Created.**

A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Article on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.

(B) **Duration.** No permit issued under this Article shall be valid for a period longer than **six (6) months** unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(C) **Pre-Construction Meeting Required.** No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(D) **Compliance With All Laws Required.** The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules, and regulations.

33-4-7 REVISED PERMIT DRAWINGS. In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within **ninety (90) days** after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with **Section 33-4-21** of this Article. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

33-4-8 INSURANCE.

(A) **Required Coverages and Limits.** Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs (1) and (2) below:

- (1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:
 - (a) **Five Million Dollars (\$5,000,000.00)** for bodily injury or death to each person;
 - (b) **Five Million Dollars (\$5,000,000.00)** for property damage resulting from any one accident; and
 - (c) **Five Million Dollars (\$5,000,000.00)** for all other types of liability;
- (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of **One Million Dollars (\$1,000,000.00)** for personal injury and property damage for each accident;
- (3) Worker's compensation with statutory limits; and
- (4) Employer's liability insurance with limits of not less than **One Million Dollars (\$1,000,000.00)** per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

(B) **Excess or Umbrella Policies.** The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

(C) **Copies Required.** The utility shall provide copies of any of the policies required by this Section to the City within **ten (10) days** following receipt of a written request therefor from the City.

(D) **Maintenance and Renewal of Required Coverages.** The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until **thirty (30) days** after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Administrator of such intent to cancel or not to renew."

Within **ten (10) days** after receipt by the City of said notice, and in no event later than **ten (10) days** prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

(E) **Self-Insurance.** A utility may self-insure all or a portion of the insurance coverage and limit requirements required by paragraph (A) of this Section. A utility

that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under paragraph (A), or the requirements of paragraphs (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under paragraph (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(F) **Effect of Insurance and Self-Insurance on Utility's Liability.** The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

(G) **Insurance Companies.** All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. All insurance carriers and surplus line carriers shall be rates "A-" or better and of a class size "X" or higher by A.M. Best Company.

33-4-9 INDEMNIFICATION. By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the City, its officials, officers, employees, agents or representatives.

33-4-10 SECURITY.

(A) **Purpose.** The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve a security for:

- (1) The faithful performance by the permittee of all the requirements of this Article;
- (2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Article; and
- (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to

perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Article or any other applicable law.

(B) **Form.** The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this paragraph shall, at a minimum:

- (1) Provide that it will not be canceled without prior notice to the City and the permittee;
- (2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
- (3) Shall provide a location convenient to the City and within the State of Illinois at which it can be drawn.

(C) **Amount.** The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Superintendent, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Superintendent may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The City, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the **fourteen (14) day** notice period. Withdrawals may be made if the permittee:

- (1) Fails to make any payment required to be made by the permittee hereunder;
- (2) Fails to pay any liens relating to the facilities that are due and unpaid;
- (3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- (4) Fails to comply with any provision of this Article that the City determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

(F) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in paragraph (C) of this Section.

(G) **Closing and Return of Security Fund.** Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(H) **Rights Not Limited.** The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

33-4-11 PERMIT SUSPENSION AND REVOCATION.

(A) **City Right to Revoke Permit.** The City may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

- (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- (2) Noncompliance with this Article;
- (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice of Revocation or Suspension.** The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this **Section 33-4-11.**

(C) **Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.** Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

- (1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;
- (2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within **five (5) working days** after receipt of the written notice of revocation; or
- (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the

rights-of-way to the satisfaction of the City providing written proof of such removal to the City within **ten (10) days** after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this paragraph.

(D) **Stop Work Order.** In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within paragraph (A) of this Section.

(E) **Failure or Refusal of the Permittee to Comply.** If the permittee fails to comply with the provisions of paragraph (C) of this Section, the City or its designee may, at the option of the City:

- (1) correct the deficiencies;
- (2) upon not less than **twenty (20) days** notice to the permittee, remove the subject facilities or equipment; or
- (3) after not less than **thirty (30) days** notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

33-4-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(A) **Notification of Change.** A utility shall notify the City no less than **thirty (30) days** prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

(B) **Amended Permit.** A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right-of-way.

(C) **Insurance and Bonding.** All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

33-4-13 GENERAL CONSTRUCTION STANDARDS.

(A) **Standards and Principles.** All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

- (1) Standard Specifications for Road and Bridge Construction;
- (2) Supplemental Specifications and Recurring Special Provisions;
- (3) Highway Design Manual;
- (4) Highway Standards Manual;
- (5) Standard Specifications for Traffic Control Items;

- (6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- (7) Flagger's Handbook; and
- (8) Work Site Protection Manual for Daylight Maintenance Operations.

(B) **Interpretation of Municipal Standards and Principles.** If a discrepancy exists between or among differing principles and standards required by this Article, the Superintendent shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Superintendent shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

33-4-14 TRAFFIC CONTROL.

(A) **Minimum Requirements.** The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(B) **Warning Signs, Protective Devices, and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(C) **Interference with Traffic.** All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(D) **Notice When Access is Blocked.** At least **forty-eight (48) hours** prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to **Section 33-4-20** of this Article, the utility shall provide such notice as is practicable under the circumstances.

(E) **Compliance.** The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

33-4-15 LOCATION OF FACILITIES.

(A) **General Requirements.** In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this paragraph.

- (1) **No Interference with City Facilities.** No utility facilities shall be placed in any location if the Superintendent determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.
- (2) **Minimum Interference and Impact.** The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.

- (3) **No Interference with Travel.** No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.
- (4) **No Limitations on Visibility.** No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
- (5) **Size of Utility Facilities.** The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

(B) **Parallel Facilities Located Within Highways.**

- (1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:
 - (a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
 - (b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of **two (2) feet (0.6m)** behind the face of the curb, where available;
 - (c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of **four (4) feet (1.2m)** outside the outer shoulder line of the roadway and are not within the clear zone;
 - (d) No pole is located in the ditch line of a highway; and
 - (e) Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.
- (2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:
 - (a) The facility is located as near the right-of-way line as practicable and not more than **eight (8) feet (2.4m)** from and parallel to the right-of-way line;
 - (b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - (c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-way line or as near as practicable.

(C) **Facilities Crossing Highways.**

- (1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- (2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
- (3) **90 Degree Crossing Required.** Crossing facilities shall cross at or as near to a **ninety (90) degree** angle to the centerline as practicable.
- (4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:
 - (a) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
 - (b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and
 - (c) Overhead crossings at major intersections are avoided.
- (5) **Underground Power or Communication Facility.** An underground power or communication facility may cross a highway only if:
 - (a) The design materials and construction methods will provide maximum maintenance-free service life; and
 - (b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) **Markers.** The City may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(D) **Facilities to be Located Within Particular Rights-of-Way.** The City may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(E) **Freestanding Facilities.**

- (1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
- (2) The City may require any freestanding facility located within a right-of-way to be screened from view.

(F) **Facilities Installed Above Ground.** Above ground facilities may be installed only if:

- (1) No other existing facilities in the area are located underground;
- (2) New underground installation is not technically feasible; and

- (3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

(G) **Facility Attachments to Bridges or Roadway Structures.**

- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
- (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - (a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - (b) The type, length, value, and relative importance of the highway structure in the transportation system;
 - (c) The alternative routings available to the utility and their comparative practicability;
 - (d) The proposed method of attachment;
 - (e) The ability of the structure to bear the increased load of the proposed facility;
 - (f) The degree of interference with bridge maintenance and painting;
 - (g) The effect on the visual quality of the structure; and
 - (h) The public benefit expected from the utility service as compared to the risk involved.

(H) **Appearance Standards.**

- (1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

33-4-16 **CONSTRUCTION METHODS AND MATERIALS.**

(A) **Standards and Requirements for Particular Types of Construction Methods.**

(1) **Boring or Jacking.**

- (a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Superintendent from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- (b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.
- (c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.
- (d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- (e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the City to be preserved shall be bored under or around the root system.

(2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 IDOT's "Standard Specifications for Road and Bridge Construction".

- (a) **Length.** The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Superintendent.
- (b) **Open Trench and Excavated Material.** Open trench and wind rowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway.

Where right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.

- (c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the City to be preserved.
- (3) **Backfilling.**
 - (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Superintendent, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Superintendent.
- (4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be discouraged but may be permitted only upon location specific approval by the Superintendent and only if that portion of the roadway is closed to traffic.
 - (a) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Superintendent.
 - (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.
 - (c) All saw cuts shall be full depth.
 - (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.
- (5) **Encasement.**
 - (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing

- shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.
- (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
 - (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.
 - (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
 - (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair and
 - (ii) cathodic protection of the pipe is provided;
 - (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- (6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Electric Lines	30 inches (0.8m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6m, as Determined by City)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B) **Standards and Requirements for Particular Types of Facilities.**

- (1) **Electric Power or Communication Lines.**
 - (a) **Code Compliance.** Electric power or communications facilities within City rights-of-way shall be constructed,

operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.

- (b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

(c) **Underground Facilities.**

(i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.

(ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:

- a. the crossing is installed by the use of "moles", "whip augers", or other approved method which compress the earth to make the opening for cable installation or
- b. the installation is by the open trench method which is only permitted prior to roadway construction.

(iii) Cable shall be grounded in accordance with the National Electrical Safety Code.

(iv) **Burial of Drops.** All temporary service drops placed between **November 1** of the prior year and **March 15** of the current year, also known as snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within **ten (10) business days** after placement.

(2) **Underground Facilities Other Than Electric Power or Communication Lines.** Underground facilities other than electric power or communication lines may be installed by:

- (a) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
- (b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;

- (c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - (d) tunneling with vented encasement, but only if installation is not possible by other means.
- (3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT’s “Standard Specifications for Road and Bridge Construction”, and all other applicable laws, rules, and regulations.
 - (4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
 - (5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current “Standard Specifications for Water and Sewer Main Construction in Illinois”.
 - (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Superintendent, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

(C) **Materials.**

- (1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT’s “Standard Specifications for Road and Bridge Construction”, the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
- (2) **Material Storage on Right-of-Way.** No material shall be stored on the right-of-way without the prior written approval of the Superintendent. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to

right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.

- (3) **Hazardous Materials.** The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D) **Operational Restrictions.**

- (1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
- (2) These restrictions may be waived by the Superintendent when emergency work is required to restore vital utility services.
- (3) Unless otherwise permitted by the City, the hours of construction are from **6:00 A.M. to 6:00 P.M.**

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

33-4-17 VEGETATION CONTROL.

(A) **Electric Utilities - Compliance with State Laws and Regulations.**

An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

(B) **Other Utilities - Tree Trimming Permit Required.**

Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing the same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

- (1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.
- (2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively

damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(C) **Specimen Trees or Trees of Special Significance.** The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

(D) **Chemical Use.**

- (1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.
- (2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Superintendent that such spraying is the only practicable method of vegetation control.

33-4-18 REMOVAL, RELOCATION, OR MODIFICATION OF UTILITY FACILITIES.

(A) **Notice.** Within **ninety (90) days** following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

(B) **Removal of Unauthorized Facilities.** Within **thirty (30) days** following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
- (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(C) **Emergency Removal or Relocation of Facilities.** The City retains the right and privilege to cut or move any facilities located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(D) **Abandonment of Facilities.** Upon abandonment of a facility within the rights-of-way of the City, the utility shall notify the City within **ninety (90) days**. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the Superintendent determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

33-4-19 CLEANUP AND RESTORATION. The utility shall remove all excess material and restore all turf and terrain and other property within **ten (10) days** after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Superintendent. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Superintendent for good cause shown.

33-4-20 MAINTENANCE AND EMERGENCY MAINTENANCE.

(A) **General.** Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

(B) **Emergency Maintenance Procedures.** Emergencies may justify noncompliance with normal procedures for securing a permit:

- (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flags. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- (2) In an emergency, the utility shall, as soon as possible, notify the Superintendent or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City police shall be notified immediately.
- (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(C) **Emergency Repairs.** The utility must file in writing with the City a description of the repairs undertaken in the right-of-way within **forty-eight (48) hours** after an emergency repair.

33-4-21 VARIANCES.

(A) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Superintendent of Public Works as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

(B) **Authority to Grant Variances.** The Superintendent shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

(C) **Conditions for Granting of Variance.** The Superintendent may authorize a variance only if the utility requesting the variance has demonstrated that:

- (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(D) **Additional Conditions for Granting of a Variance.** As a condition for authorizing a variance, the Superintendent may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

(E) **Right to Appeal.** Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Superintendent under the provisions of this Article shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Council's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The City Council shall timely decide the appeal.

33-4-22 PENALTIES. Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it. **(See Section 1-1-20 for additional penalties.)**

33-4-23 **ENFORCEMENT.** Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article.

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** All sidewalks shall be built to follow the grade of the existing curb, and where no curb exists, the sidewalk shall be built according to the instructions of the Street Superintendent and the City Council. No one shall build a sidewalk unless it consists of new construction.

(B) **Permit.** It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the City or along any of the streets, alleys, or public highways thereon, without first obtaining permission from the Street Superintendent to do so. It shall also be unlawful to remove or destroy a sidewalk or section thereof without first obtaining permission from the Street Superintendent to do so.

(C) **Cost.** Upon request, the City Council may approve reimbursing a portion of the costs incurred in building a sidewalk or section thereof. In determining whether to issue reimbursement, the City Council may consider, among other things, the City Budget, the total costs incurred, and a recommendation from the Public Works Committee.

(D) **Subdivisions.** This Section is not applicable to new subdivisions. **(65 ILCS 5/11-80-13)**
(Ord. No. 1837; 07-18-22)

33-5-2 CURBS AND GUTTERS.

(A) **Request in Writing.** Any person owning property within the City who desires to have new or replacement curbs and gutters constructed along the street adjoining his premises shall file a request with the Street Superintendent, giving the location of the property and the length of the curbs and gutters requested. Requests for replacement curbs and gutters may also be submitted in writing by any member of the City Council.

(B) **New Curbs and Gutters.** A request for construction of new curbs and gutters shall be reviewed by the City Council, whose decision shall be dependent upon the availability of funds, priority of projects, and continuity of construction for the best benefit of the City as determined by the City Council. If the funds are available and the City Council approves the request for new curbs and gutters, the property owner shall pay **one-half (1/2)** of the cost of the construction and thereafter, the curb and gutter shall be maintained by the City.

(C) **Replacement Curbs and Gutters.** A request for construction for replacement curbs and gutters shall be reviewed by the Street Superintendent, whose decision shall be dependent upon the availability of funds, priority of projects, and continuity of construction for the best benefit of the City as determined by the Street Superintendent. If the funds are available for the request to replace existing curbs and gutters, there is no cost to the property owner. The Street Superintendent will secure pricing at the beginning of the budget year and schedule replacement.

(D) **Subdivisions.** This Section is not applicable to new subdivisions. **(65 ILCS 5/11-80-13)**
(Ord. No. 1837; 07-18-22)

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 the storm water sewer system.

(65 ILCS 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

33-6-2 **PERMIT FOR CULVERT.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the City Clerk and approved by the Street Superintendent.

33-6-3 **TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, 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.

(65 ILCS 5/11-80-7)

ARTICLE VII - DRIVEWAYS

33-7-1 **PERMITS REQUIRED.** No person shall construct a driveway across any sidewalk in the City without having first obtained a permit therefor.

Applications for such permits shall be made to the City Clerk and shall be accompanied by the fee required.

No permit for construction of a driveway for commercial use, or for the habitual use of other than the owner or occupant of the premises served shall be issued except upon the order of the City Clerk.

33-7-2 **SPECIFICATIONS.** Driveways across sidewalks shall be constructed in compliance with the specifications required by the Street Superintendent.

33-7-3 **BREAKING CURB - BOND REQUIRED.** Before a permit can be issued to break a curb in the City for the installation of a driveway or any other purpose, a bond or cash in the amount of **Four Hundred Dollars (\$400.00)** is required to be posted with the City Clerk.

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

(65 ILCS 5/11-80-2)

ARTICLE VIII - SNOW REMOVAL

33-8-1 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article.

"BUSINESS DAY" is any day not a Sunday or a National Holiday.

"BUSINESS DISTRICT" shall include all those areas used for business, commercial and industrial purposes.

"BUSINESS HOURS" are the hours between **8:30 A.M.** and **4:30 P.M.** on any business day.

"ROADWAY" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

"SIDEWALK" means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

"STREET" OR "HIGHWAY" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

33-8-2 **SNOW AND ICE TO BE REMOVED FROM SIDEWALKS BY PRIVATE PERSONS.**

(A) Every person 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 a sidewalk as is in front or abuts on said building or lot of land.

33-8-3 **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.

33-8-4 **MAYOR'S AUTHORITY.** The Mayor is hereby authorized on behalf of the City to cause sidewalks to be cleared upon the request of the person or entity charged with snow and ice removal. Any person or entity whose sidewalk is cleared pursuant to this Section shall reimburse the City for the costs of such clearing.

(65 ILCS 5/11-80-13)

ARTICLE IX - MOVING BUILDINGS

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

33-9-2 **TERMS AND CONDITIONS OF PERMIT.** When a house moving permit is granted, such terms and conditions as may be deemed reasonable and proper may be imposed, including, but not limited to the public streets or other public property in the City on, over, or through which the building or structure shall be moved, and the requirements of changes, alterations, additions or repairs to be made to or upon the building or structure, to the end that the relocation thereof will not be materially detrimental or injurious to public safety or to public welfare or to the property and improvements, or either, in the district to which it is to be moved. Such terms and conditions shall be written upon the permit or appended in writing thereto.

33-9-3 **LIABILITY INSURANCE.** Every person moving a building in the City shall file with the City Clerk a liability insurance policy issued by the solvent corporation holding a certificate of authority to do insurance business in the State, which policy shall conform in all respects to the requirements of this Section.

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

The liability policy required under this Section shall insure the person moving a building against loss from the liability imposed by law for injury to, or death of any person, or damage to any property growing out of the moving of such building to the amount or limit of **Fifty Thousand Dollars (\$50,000.00)** exclusive of interest and costs, on account of injury to or death of any **one (1) person**, of **One Hundred Thousand Dollars (\$100,000)** exclusive of interest and costs, on account of moving any **one (1) building** resulting in injury to or death of more than **one (1) person**, and of **Twenty-Five Thousand Dollars (\$25,000.00)** for damage to property of others, resulting from moving any **one (1) building**.

33-9-4 **SUSPENSION OR REVOCATION OF PERMIT.** The Street Superintendent, at any time, and for sufficient cause, may revoke or suspend any permit granted under this Article.

33-9-5 **APPROVAL OF ROUTE.** The streets over which any building or structure is to be moved must be recommended by the Street Superintendent and the Chief of Police to the City Council for approval.

33-9-6 **OBSTRUCTING STREETS.** No person owning or having charge of the moving of any building into, on, over, through, or from any public streets, ways or parks in the City shall permit said building to remain in any one location on any such street, way or park for a period longer than **twenty-four (24) hours**, except by written permission obtained from the Chief of Police, or to obstruct traffic on any railroad.

ARTICLE X - NUMBERING BUILDINGS

33-10-1 **DECIMAL SYSTEM; EXCEPTION.** The numbering of houses and buildings fronting upon the public streets, avenues and alleys of the City shall be according to the decimal system and as follows:

(A) On the north and west sides of streets, even numbers shall be used; on the south and east sides of streets, odd numbers shall be used.

(B) The several blocks fronting upon the several streets in said City shall have their frontage divided as nearly as may be into spaces of **twenty (20) feet** each, and each **twenty (20) feet** of frontage of each block shall be given a number, such space of **twenty (20) feet** being hereby fixed as the unit for the numbering of said streets, avenues and alleys.

(C) Provided, however, that in the case of West Main Street, the public square and the first block of North Broad Street, immediately north of the public square and the first block of East Main Street immediately east of the public square and the first block of South Broad street immediately south of the public square the unit of space shall be **ten (10) feet** instead of **twenty (20) feet**. For the purpose of fixing the several numbers to be placed upon the several streets the City shall be divided east and west by Main Street and divided north and south by Broad Street.

(D) All irregular or unusual blocks, and all irregular streets, shall be numbered as may be specified and directed by the City Engineer, adhering as nearly as may be to the foregoing plan.

33-10-2 **ENGINEER MAY ASSIGN NUMBERS.** It shall be the duty of the City Engineer in pursuance of the foregoing Section to establish and assign all numbers herein provided for upon the streets, avenues, and alleys of said City, and he shall prepare the necessary maps and records of the numbers assigned by him and said maps and records shall be evidence of the numbers so assigned; and he shall, on demand, furnish each owner or occupant of any building or such person as may be employed in numbering houses or buildings, with the necessary information as to the number belonging to each house or building, the size and quality of the number and the placing of the same on the house, and all numbering shall be strictly in accordance with directions and regulations of said City Engineer.

33-10-3 **CONFORMANCE.** All owners or occupants of houses or buildings now erected, within said City, are hereby required to number their houses and buildings in conformity with the provisions of this Chapter and the regulations of the City Engineer made in pursuance thereof.

Any owner or occupant of any house or building now erected, or hereafter to be erected, who shall fail to number such house or building, as aforesaid, within **thirty (30) days** after the completion thereof in case of the erection of a new house or building, or who shall number any house otherwise than in conformity herewith and the regulations of the City Engineer, shall be deemed guilty of a misdemeanor.

33-10-4 **INTERSECTING STREETS.** All streets intersecting Main Street shall, for that portion of such intersecting street south of said Main Street have prefixed before the present name of such streets the word south and all such intersecting streets north of said Main Street shall have prefixed before the present name of the same the word north. All streets intersecting Broad Street shall, for that part of such street west of said Broad Street have prefixed before the present name of the same the word West and all such intersecting streets east of said Broad Street shall have prefixed before them the present name of the same the word East. **(1966 Code; Sec. 8-5-1 et seq.)**

CITY OF CARLINVILLE
550 N. Broad St.
Carlinville, IL 62626

EXCAVATION PERMIT

NAME _____

FIRM NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

LOCATION OF PROPOSED EXCAVATION _____

NATURE OF EXCAVATION _____

BONDING COMPANY:

NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

AMOUNT OF BOND \$ _____

PREVIOUS EXPERIENCE (LIST CITIES AND/OR VILLAGES)

	<u>CITY/VILLAGE</u>	<u>CITY/VILLAGE OFFICIAL</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

I have read the municipal law with regard to excavations and my firm or company intends to fully comply with the Street Regulations Code provisions.

(Applicant's Signature)

**CITY OF CARLINVILLE
550 N. Broad St.
Carlinville, IL 62626**

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 205/0.01 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 Code and the Plat Act, Chapter 765**, 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). The City Clerk is hereby designated until otherwise provided.

"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 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 this 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 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, board 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 Sec. 10/1-101)**

(B) Any suit brought against any official, board 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 classifications 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 classifications.
- (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) Where the topography has a significant bearing upon the street grades, the plan of public utilities and drainage ways or facilities in the proposed subdivision and when it would be difficult for the Plan Commission or the City Council to understand the relation of the Plan to the existing topographic conditions, contour lines at not greater than **two (2) foot intervals** shall be shown. Contour lines shall be shown for all hillside areas and other areas of significant slope.
- (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** 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 (40) 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 (1/2%)**.

(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 otherwise 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 14 - "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 marshlands, 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 BASEMENTS.

(A) Easements of not less than **seven and one-half (7 1/2) 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. 34-3-13(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 of whom shall be appointed by the Plan Commission, one appointed by the subdivider, and one of whom shall be mutually agreed upon by the other two.

(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 therefore 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 supply and 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 be not less than **ten thousand (10,000) square feet** with a minimum front line at the building line of **sixty (60) feet** and a minimum depth of **one hundred (100) feet**. The minimum set-back line in the front yard shall be **twenty-five (25) feet**; land that is under water or reserved for street improvements shall not be counted in determining compliance with requirements.

(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 this 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 **half-inch (1/2")** 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 inch (1/2")** 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-six (36) feet** on local streets and **forty (40) 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	40 feet	Bituminous Surface Treatment (See Below)
Local (Minor)	50 feet	36 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) **Arterial** street pavements shall be provided with a bituminous surface of **one and one-half inches (1 1/2")** of bituminous concrete binder and **one and one-half inches (1 1/2")** of bituminous concrete surface course Class 1 placed upon a crushed stone base course of CA #6 having a minimum thickness of **six**

inches (6") compacted. The center **forty feet (40')** of the base course shall have a crown of **three inches (3")**.

- (3) **Local and Collector** street pavements shall be provided with a CA #6 crushed stone base course, having a minimum thickness of **seven inches (7")** 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 the Code)**

(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 shall 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 feet (600')** 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 City Council, upon the recommendation of the Plan Commission may require the installation of storm sewers. **(Ord. No. 1351; 10-21-96)**

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 larger capacity than **eight (8) inches** are 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 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 Fire Chief as part of the water distribution system. Installation of hydrants shall be accomplished in such a manner that each lot is within **four hundred feet (400')** 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 inches (6")** in diameter. Hydrants installed shall be of the

type approved by the Fire Chief. The mains shall be looped. Valves shall be provided at **eight hundred foot (800')** intervals. In addition, all water services shall be at least **three-fourths inch (3/4")** in diameter.
[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 inches (4")** high. All street name signs shall be mounted on **two-inch (2")** diameter galvanized pipe set in concrete to a depth of at least **three feet (3')** and extending above the surface to a height of at least **seven feet (7')**.

34-3-12 PUBLIC UTILITIES: GAS, ELECTRIC, TELEPHONE, AND CABLE TELEVISION.

(A) **Telephone and Cable Television.** All utility lines and cable television service lines shall be placed in the rearline easements when carried on overhead poles.

34-3-13 SIDEWALKS.

(A) Concrete sidewalks not less than **four inches (4")** in thickness and **four feet (4')** in width shall be constructed along all lot lines coincidental with street rights-of-way. **(Ord. No. 1351; 10-21-96)**

(B) In the event a crosswalk is required in accordance with **Section 34-2-14**, a concrete sidewalk not less than **four inches (4")** in thickness and **four feet (4')** 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 Clerk, 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 Professional 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 (5000') 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 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 _____, 20__.

 _____(SEAL)
 _____(SEAL)

(B) **NOTARY PUBLIC'S CERTIFICATE**

State of Illinois)
) ss.
 County of Macoupin)

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) 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 _____, 20__ at _____.

NOTARY PUBLIC

(C)

SURVEYOR'S CERTIFICATE

State of Illinois)
)
County of Macoupin) 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

(D)

COUNTY CLERK'S CERTIFICATE

State of Illinois)
)
County of Macoupin) ss

I, _____, County Clerk of _____ County, Illinois, do hereby certify that there are no delinquent general taxes, no unpaid forfeited taxes and no redeemable tax sales against any of the land included in the attached plat.

I further certify that I have received all statutory fees in connection with the attached plat.

Given under my hand and seal at _____ this ___ day of _____
_____, 20__.

County Clerk

Date

(E)

CERTIFICATE OF THE CITY COUNCIL

State of Illinois)
) ss
County of Macoupin)

I, _____, Mayor of the City of _____, Illinois do hereby
certify that the Plat shown herein was duly presented to the City Council and approved at a
meeting of the same held on _____, 20__.
 (Month) (Day)

MAYOR

CITY CLERK

(F)

FLOOD HAZARD CERTIFICATE

State of Illinois)
) ss
County of Macoupin)

We, the undersigned, do hereby certify that no part of this plat to be recorded is
situated within **five hundred (500) feet** of any surface drain or watercourse serving a
tributary area of **six hundred forty (640) acres or more, or**, if this plat is within **five
hundred (500) feet** of any surface drain or watercourse, we do hereby certify that this plat
has been reviewed by the Illinois Department of Transportation Division of Water Resources
and their reports are on file with the Recorder of Deeds of _____ County.

BY: _____

Owner(s)

BY: _____
Illinois Land Surveyor

Registration Number

Date

(G)

PLAN COMMISSION CERTIFICATE

State of Illinois)
) ss
County of Macoupin)

Approved this _ day of _____, 20__.

CHAIRMAN, PLAN COMMISSION

SECRETARY, PLAN COMMISSION

(H)

SUPERINTENDENT OF WATER, SEWER AND STREETS

State of Illinois)
) ss
County of Macoupin)

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 _____, 20__.

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 CITY.** 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 1/2) 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 1/2) 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 1/2) 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 1/2) 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 a 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 referred to herein as the "**Administrator**" is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) To review and forward preliminary 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. They 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, 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; **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. (**Ord. No. 1351; 10-21-96**)

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 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. (**See 765 ILCS Sec. 205/6, 205/7 and 205/8**)

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 plat submitted.
- ____2. Plans conform to **Section 34-2-6.**
- ____3. Plan scale is not less than 1 inch to 100 feet.
- ____4. Minimum profile scale is 1 inch to 100 feet horizontal and 1 inch to 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 1 inch to 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 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
 - _____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

- _____17. (Continued)
- _____l. Watercourses, indicating:
 - _____1. type
 - _____2. high water width and elevation
 - _____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
 - _____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 100 feet beyond, indicating:
- _____a. Existing contours at vertical intervals of not more than 2 feet.
 - _____b. Proposed contours at vertical intervals of not more than 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 100 feet or less outside of the boundaries, are shown:
- _____a. Layout of streets, indicating:
 - _____1. Arterial (Primary) streets indicating:
 - _____a. 80 feet right-of-way width
 - _____b. 50 feet roadway width
 - _____2. Collector (Secondary) streets indicating:
 - _____a. 60 feet right-of-way width
 - _____b. 40 feet roadway width back-to-back
 - _____3. Local (minor) streets indicating:
 - _____a. 50 feet right-of-way width
 - _____b. 36 feet roadway width back-to-back of curbs
 - _____4. Cul-de-sac streets, indicating:
 - _____a. 50 feet right-of-way width.
 - _____b. 27 feet roadway width.
 - _____c. The length does not exceed 800 feet unless there are less than 16 lots abutting the cul-de-sac street.

_____20. (Continued)

- _____d. Terminus is circular or nearly so, and right-of-way is at least 120 feet in diameter.
- _____e. Terminus roadway width is 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 and shall conform with 9-1-1 Emergency Plan, if any!
- _____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 municipality.
- _____d. Utility easements:
 - _____1. Located at the rear of each lot and other necessary locations.
 - _____2. Not less than 10 feet in width on each lot.
 - _____3. Purpose is indicated.
 - _____4. Storm water runoff is indicated.
- _____e. Centerline profiles of all residential streets showing gradients not less than 0.5 percent and not more than the following for commercial or industrial streets:
 - _____1. 7% on collector streets.
 - _____2. 10% on local streets. **(Ord. No. 1351; 10-21-96)**
- _____f. Pedestrian ways, when required, indicating:
 - _____1. Location at approximately the center of the blocks in excess of 1000 feet in length.
 - _____2. Width not less than 10 feet.
 - _____3. Shrub or tree hedge at side boundary lines.
- _____g. Block layout, indicating: (Sec. 34-2-14)
 - _____1. Blocks do not exceed 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.

_____20. (Continued)

_____h.

Lot layout, indicating:

- _____1. Lot dimensions.
- _____2. Lot areas, not less than those stipulated in Section 34-2-17.
- _____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 Section 34-2-17.
- _____10. Lot lines are substantially at right angles to the street lines and radial to curved street lines.
- _____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 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 15 feet wider on each side of water at high water level.
- _____13. Due regard for natural features, such as:
 - _____a. trees **(See Ch. 35 Tree Code, if any.)**
 - _____b. watercourses
 - _____c. historic items
 - _____d. other similar conditions

_____20. (Continued)

- _____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, indicating:
 - _____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 400 feet.
- _____p. Storm sewer layout, indicating:
 - _____1. Location.
 - _____2. Catch basins not more than 606 foot intervals.
 - _____3. Storm water is not carried across or around any intersection.
 - _____4. Surface water drainage pattern for individual lot and block.
- _____q. Street light layout, indicating: **(See Sec. 34-5-32)**
 - _____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 covenants 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 12 months of the date of approval, by the City Council, of the Preliminary Plan.
- _____2. Six (6) copies of engineering plans have been submitted.
- _____3. Plans conform to **Section 34-3-1. (Ord. No. 1351)**
- _____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 1 inch to 50 feet.
 - _____ b. Vertical scale is no less than 1 inch to 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 as specified in 34-4-9. **(Ord. No. 1351)**
 - _____ c. The plan conforms to the overall municipal plan for any trunk sewers traversing the subdivision.
 - _____ d. The distance between manholes does not exceed 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 8 feet.
 - _____ h. Profile of existing and proposed ground surfaces.
 - _____ i. Risers are shown for individual house service laterals where depths of main exceeds 12 feet.
 - _____ j. Pipe joints are of permitted type.
 - _____ 1. 540 pounds in collector streets.
 - _____ 2. 400 pounds in minor and cul-de-sac streets.
 - _____ 3. 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 8 inches I.D.
 - _____ c. The plan conforms to the municipality's overall plan for any trunk lines which might traverse the subdivision.
 - _____ 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 20 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 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 12 inches I.D., except that a lead from a single inlet may be 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. Local and cul-de-sac streets
 - _____ 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 foot-candle illumination (calculated).
 - ____1. type of base and pole.
 - ____2. bracket or arm.
 - ____3. luminaires 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 Recommendations -- 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 6 months after the approval of the engineering plan.
- ____2. Plat has been submitted within 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. Six (6) 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 1 inch equals 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 this 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 or Superintendent of Public Works.
- _____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 **Illinois Environmental Protection Agency Permits** for the sanitary sewer installation.
 - _____c. A copy of the **Illinois Environmental Protection Agency 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. **(Ord. No. 1351; 10-21-96)**

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 _____ 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 _____, 20__.

(OWNER)

APPROVED by the _____ of _____ this _____ day of _____, 20__.

BY: _____
(MUNICIPALITY)

(B) **[Letterhead of Bank, Savings and Loan or Mortgage House]**

_____, 20__

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 _____, 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 35 – TAX INCREMENT FINANCING

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>INTERESTED PARTIES REGISTRIES</i>	
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CHAPTER 35

TAX INCREMENT FINANCING

ARTICLE I – INTERESTED PARTIES REGISTRIES

35-1-1 **CREATION OF REGISTRY.** The Clerk or his or her designee, is hereby authorized and directed to create an "Interested Parties Registry" in accordance with Section 11-74.4-4.2 of the Act for each redevelopment project area created under the Act and not terminated by the City, whether now existing or created after the date of the adoption of this Code.

35-1-2 **RULES ADOPTED.** In accordance with Section 11-74.4-4.2 of the Act, the City hereby adopts the Registration Rules attached hereto as Exhibit A as Registration Rules for each such "Interested Parties Registry". The City, with the consent of the City Attorney as to form and legality, shall have the authority to amend such Registration Rules from time to time as may be necessary or desirable to comply with and carry out the purposes intended by the Act.

(Ord. No. 1587; 04-20-09)

EXHIBIT "A"

TIF INTERESTED PARTIES REGISTRY RULES

- A. Definitions.** As used in these Registration Rules, the following terms shall have the definitions set forth below.

"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.

"City" shall mean City of Carlinville, a unit of government under Section 6(a) Article VII of the 1970 Constitution of the State of Illinois.

"City Council" shall mean the Mayor and City Council of the City of Carlinville.

"Interested Party or Interested Parties" shall mean (a) any resident(s) of the City (b) any organization(s) active within the City, and (c) any other person or entity 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.

"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.

"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.

"Registrar" shall mean the City Clerk or any successor designee appointed by the City Council.

"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 the Redevelopment Project Area.

"Rules" shall mean these rules for maintenance of Registries and registration of any Interested Party as now or hereinafter amended by action of the City Council.

All capitalized terms not otherwise defined shall have the meaning ascribed to them in the Act or the Illinois Municipal Code (**65 ILCS 5/1-1-1 et seq.**)

- B. Appointment of Registrar.** The City Clerk is hereby appointed as the Registrar for the administration and enforcement of these Rules. The City Council may, upon the request of the City Clerk or on its own motion, appoint a successor Registrar. Any successor Registrar may be any officer, employee, department or agent of the City deemed suitable by the City Council. Upon appointment of a successor Registrar, the current Registrar shall:

1. give written notice to all Interested Parties not less than **thirty (30) days** prior to such transfer;
2. publish notice of such transfer in a newspaper of general circulation in the City; and
3. transfer all records of any nature or kind pertaining to any Registry to the successor Registrar.

- C. Establishment of Registry.** The City shall establish a separate 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 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 Registry shall be completed prior to the deadline for sending any of the notices required by Section (J) of these rules or any other notices required by the Act with respect to the proposed Redevelopment Project Area.

D. Maintenance of Registry. The Registries shall be maintained by the Registrar.

E. Registration Procedure.

1. A resident or organization seeking to register as an Interested Party with respect to a Redevelopment Project Area must complete and submit a Registration Form to the Registrar.
2.
 - a. With respect to applicants who are individuals, the Registrar may require submission of a copy of a current driver's license, voter registration card, lease, utility bill or such other evidence as may be acceptable to the Registrar to establish the applicant's current City residency.
 - b. With respect to applicants which are organizations, the application shall include a written statement, of not more than one page, describing the organization's current activity in the City. Said statement shall be signed by the authorized person of the organization who is submitting the application.
3. Upon receipt of an application, the Registrar shall determine if the application is complete and if the applicant qualifies for registration as an Interested Party. If the Registrar determines that the application is incomplete or the applicant does not qualify for registration, the Registrar shall notify the applicant, in writing of any such deficiency. Any such notice of deficiency shall be mailed to the address set forth on the application by the applicant. The registrant shall be entitled to correct any defects and resubmit a new or corrected application and supporting documentation. If the applicant does not resubmit within **twenty-one (21) days** following the date of the notice of deficiency, the Registrar shall determine that the application is abandoned and shall not register the applicant on the Registry.
4. Applicants whose Registration Form, and supporting documentation, if any, complies with these 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 confirming such Registration, which notice shall, at a minimum include the date of registration and the date of expiration of the registration.
5. Upon registration, the applicant shall be deemed to be an Interested Party for a period of **three (3) years** from the date of registration. Not less than **ninety (90) days** prior to the expiration of the registration, the Registrar shall notify the Interested Party of the pending expiration of the registration and the procedure for renewal of the registration. If the Registrar fails to send such notice, the registration of the Interested Party shall be renewed from the date of expiration for an additional **three (3) year** period.
6. Renewal of registration shall be in the same manner as initial registration as set forth in paragraphs 1 through 4 of this Section.
7. An Interested Party may amend its registration by giving written notice to the Registrar by mail of any of the following:

- a. a change in address for notice purposes;
- b. in the case of organizations, a change in the name of the contact person;
and
- c. a termination of registration.

Upon receipt of such notice, the Clerk shall revise the applicable registration accordingly.

F. Operation and Maintenance of Registry.

1. 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 Party and a listing of all notices and other material sent pursuant to the Registry.
2. Interested Parties shall be sent the following notices:
 - a. Pursuant to subsections 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 subsections 74-4.5(a) of the Act, notice of changes to proposed redevelopment plans that do not (i) add additional parcels of property to the proposed redevelopment project area, (ii) substantially affect the general land uses proposed in the redevelopment plan, (iii) substantially change the nature of or extend the life of the redevelopment project, or (iv) 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 **ten (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 74-4.5(a) of the Act, notice of changes to proposed redevelopment plans that do not (i) add additional parcels of property to the proposed redevelopment project area, (ii) substantially affect the general land uses proposed in the redevelopment plan, (iii) substantially change the nature of or extend the life of the redevelopment project, or (iv) 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 **ten (10)**; such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of such changes;
 - d. Pursuant to subsection 74-4.5(c) of the Act, notice of amendments to previously approved redevelopment plans that do not: (i) add additional parcels of property to the redevelopment project area, (ii) substantially affect the general land uses in the redevelopment plan, (iii) substantially change the nature of the redevelopment project, (iv) 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, (v) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the

redevelopment plan or (vi) 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 **ten (10)**; such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of any such amendment;

- e. Pursuant to subsection 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 annual report described by subsections 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;
 - f. Pursuant to subsection 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 will 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;
 - g. Any and all material directed by the City Council to be sent to an Interested Party; such material to be sent by mail not later than **ten (10) days** following such direction by the City Council; and,
 - h. Any other notices required under the Act with respect to the applicable Redevelopment Project Area.
3. Upon termination of the Redevelopment Project Area by expiration of its term, repeal of the ordinance of the City Council or by any other action, the Registrar shall terminate the Registry by noting the action terminating the Redevelopment Project Area and notice of the termination to all Interested Parties delivered by mail.

G. 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.

H. 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. 1712; 09-03-13)

**CITY OF CARLINVILLE
550 NORTH BROAD STREET
CARLINVILLE, IL 62626**

INTERESTED PARTIES REGISTRATION FORM

Persons who want to receive information concerning Tax Increment Financing may register with the Registrar. Persons or businesses owning property within the boundaries of the proposed Redevelopment Project Area do not need to register to obtain notices of the public hearing. Registrants must be residents of the City or represent an organization which is active within the City. Registration will be verified by the Registrar and correspondence approving or disapproving the registration will be mailed (or e-mailed) within ten (10) days after submission of a completed Registration Form to the Registrar. By submission of this form, the proposed registrant authorizes the Registrar to verify the information on this Registration Form and agrees to submit additional proof of residence or ownership to the Registrar upon request. Complete and submit (or e-mail) this Registration Form for registration.

Name (Title, First, MI, Last): _____
Business: _____
Home Address: _____
City State Zip: _____
Business Address: _____
City State Zip: _____
Home Phone: _____
Business Phone: _____
Cell Phone: _____
Fax Number: _____
E-mail Address: _____

- I am a resident of the City of Carlinville.
- I am a representative of an organization that is active in the City of Carlinville.
- I own property within the Redevelopment Project Area.
- I represent a business which owns property within the Redevelopment Project Area.
- Please register me in the Interested Parties Registry.

Please Provide me with Notices by: (See Note)		
<input type="checkbox"/> Mail	<input type="checkbox"/> E-mail	<input type="checkbox"/> Fax

I agree that registration in the Interested Parties Registry is subject to the Rules adopted by the Carlinville City Council. By my signature (or transmission by e-mail), I represent to the City of Carlinville that I am eligible for such registration. I further agree to submit such additional information requested by the Registrar for verification of said registration.

Submit by Email

Applicant

Note: Applications which do not indicate a method for delivery of notices will be sent by mail only.
E-mail and fax requests must include an e-mail address or fax number, respectively.

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 **LIBRARY TAX.** The maximum tax for Library purposes, be and the same is hereby established at a rate of **.15%**. (See 75 ILCS Sec. 5/3-1 and 5/3-4)

36-1-7 **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)

36-1-8 **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)

36-1-9 **STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%**. (See 65 ILCS Sec. 5/11-81-1 and 5/11-81-2)

ARTICLE II - TAXPAYERS' RIGHTS CODE

36-2-1 **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-2-2 **SCOPE.** The provisions of this Code shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

36-2-3 **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B) **Corporate Authorities.** "Corporate Authorities" means the Mayor and City Council.

(C) **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the City that is collected or administered by the City not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the City other than infrastructure maintenance fees.

(D) **Local Tax Administrator.** "Local Tax Administrator", the City's Treasurer, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E) **City.** "City" means the City of Carlinville, 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.

(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 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 **one percent (1%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(B) The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at a rate of **one percent (1%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state.

(C) The tax imposed by this Article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the City.

36-3-3 COLLECTION OF TAX BY RETAILERS.

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department.

The tax authorized by this Article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(B) Whenever possible, the tax authorized by this Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

36-3-4 RETURNS TO DEPARTMENT. On or before the last day of **February, 2016**, and on or before the last day of each month thereafter, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

36-3-5 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.

ARTICLE IV - HOTEL OPERATORS' OCCUPATION TAX

36-4-1 **IMPOSED.** The City hereby adopts the provisions of **65 ILCS 5/8-3-14**, as amended, and imposes a tax upon all persons engaged within the City in the business of renting, leasing or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, being **35 ILCS 145 et seq.**, at a rate of **five percent (5%)** of the gross rental receipts from that renting, leasing or letting of rooms in a hotel, excluding however, from gross rental receipts, the proceeds of the renting, leasing or letting to permanent residents of each hotel, this tax to be administered and collected in accordance with this Section.

36-4-2 **DEFINITIONS.** All terms used in this Section shall have the following meanings as defined in the Hotel Operators' Occupation Tax Act, **35 ILCS 145 et seq.**, as applicable and as the same shall be in force and effect from time to time.

(A) **"Hotel"** means any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses.

(B) **"Operator"** means any person operating a hotel.

(C) **"Occupancy"** means the use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

(D) **"Room" or "rooms"** means any living quarters, sleeping or housekeeping accommodations.

(E) **"Permanent resident"** means any person who occupied or has the right to occupy any room or rooms regardless of whether or not it is the same room or rooms in a hotel for at least **thirty (30) consecutive days**.

(F) **"Rent" or "rental"** means the consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

(G) **"Person"** means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

36-4-3 **TAX CONSTITUTING SEPARATE CHARGE.** Those persons subject to the tax imposed by this Section may reimburse themselves for their tax liability for the tax by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with the state tax imposed under the Hotel Operators' Occupation Tax Act heretofore cited.

36-4-4 **EXEMPTIONS FROM TAX.** Gross rental receipts from the renting, leasing, or letting rooms in a hotel only to permanent residents shall be exempt from the provisions of this Section, and persons subject to the tax imposed hereby shall be entitled to

exclude from gross rental receipts, for the purpose of computing the tax imposed hereby, that portion of the proceeds arising from renting, leasing or letting to permanent residents of the hotel operated by the person.

36-4-5 **USE OF PROCEEDS.** The City shall expend the tax collected pursuant to this Section solely to promote tourism and conventions within the city and, otherwise, to attract nonresident, overnight visitors to the City, and no tax collected pursuant to this Section shall be used to advertise for or otherwise to promote new competition in the hotel business within the City.

36-4-6 **BOOKS AND RECORDS.** Every person subject to the tax imposed by this Section shall keep separate books and records of his or her business as an operator so as to show the rents and occupancies taxable under this Section separately from his or her transactions not taxable hereunder. If any operator fails to keep these separate books or records, he or she shall be liable to tax at the rate designated herein upon the entire gross proceeds from the operation of his or her hotel.

36-4-7 **REGISTRATION.** Every person engaged within the City in the business of renting, leasing or letting rooms in a hotel, so as to be subject to the tax imposed hereby, shall register his or her operation in the office of the City Clerk upon a registration form to be adopted and prescribed by the City, which form shall include that information as shall be reasonably necessary in order to issue collection and enforcement of the tax imposed by this Section.

36-4-8 **TAX RETURNS.** Each person required to register and subject to the tax imposed pursuant to this Code shall file tax returns with the City Clerk on a quarter-annual basis with the return for January, February and March of a given year due by **April 30** of such year; with the return for April, May and June of a given year due by **July 31** of such year; with the return for July, August and September of a given year being due by **October 31** of such year; and with the return for October, November and December of a given year due by **January 31** of the following year. The quarter-annual returns shall be on a form approved by the City, and shall include copies of the tax return or returns covering the same quarter-annual period filed by that person with the State Department of Revenue and the State of Illinois pursuant to the Hotel Operators' Occupation Tax Act heretofore cited. **(Ord. No. 1637; 06-06-11)**

36-4-9 **PAYMENT OF TAX.** The tax due pursuant to this Section shall be due and payable on or before the date the tax return showing the tax liability is filed with the City Clerk and shall be paid to the City Clerk together with any interest and penalty due, and the City Clerk shall deposit the funds so collected into a separate fund to be designated "Hotel Operators' Occupation Tax Fund".

36-4-10 **INTEREST AND PENALTIES.** If the tax due pursuant to this Section is not paid on or before the due date of the return required to be filed by the person responsible for the payment of the tax, that person shall in addition to the tax, be liable for a penalty equal to **one and one-half percent (1.5%)** of the tax due for each month, or part thereof, until the tax and penalty is paid in full. The penalty imposed hereby shall be assessed and collected in the same manner as the tax imposed under this Section.

36-4-11 **PENALTIES FOR LATE FILING.** Any person responsible for filing a tax return and paying tax pursuant to this Section who shall fail to file the required tax return on or before the due date thereof, whether or not the tax is paid therewith, shall be liable for a penalty in the amount of **Ten Dollars (\$10.00)** per day for each day that the tax return is late, and each day shall constitute a separate offense for purposes hereof.

36-4-12 **COMPLIANCE.** All returns required to be filed hereunder shall be executed by the proprietor, a general partner, or an authorized corporate officer and shall be made under penalties of perjury. Any person willfully filing a return containing false or inaccurate information shall be guilty of perjury and of a violation of this Section, and shall be subject to the fine imposed for violations of this Section in addition.

36-4-13 **AUDITS.** The City, through its designated agent or officer, shall have the right, at reasonable times after reasonable notice, to examine all books and records maintained by the person registered or required to be registered under this Section, including, but not limited to, general accounting records, bank records, returns required to be filed under the Hotel Operators' Occupation Tax Act heretofore cited, state and federal income tax returns, and any other books, records or documents which are relevant in the determination and confirmation of the full and accurate reporting of gross receipts on which tax is imposed by this Section, the entitlement to any exemptions claimed, and the payment of the full tax due pursuant to this Section.

36-4-14 **LIEN IMPOSED.** At any time after an assessment and demand for payment of any tax interest or penalty due pursuant to this Section is made against any person, the City may file a notice of lien for that tax, in the office of the Recorder of Deeds of Macoupin County, Illinois, and a lien shall attach to all property owned by the person in the City of Carlinville, Illinois, and shall continue in effect for a period of **seven (7) years** after filing and may be foreclosed in the manner of a judicial lien. The remedy for imposing a lien hereunder shall be in addition to all other remedies available to the City to collect the tax, interest and penalty due, including civil actions.

36-4-15 **FAILURE TO PAY.** Whenever any person shall fail to pay any taxes, interest or penalties as hereinabove required, such person shall be required to pay the reasonable costs and attorney's fees incurred by the City in collecting the same, and the City Attorney shall, upon the request of the corporate authorities, bring an action to collect the payment of such taxes, interest and penalties, together with the costs and reasonable attorney's fees incurred in connection therewith, in any court of competent jurisdiction.

(Ord. No. 1632; 05-02-11)

ARTICLE V – BUSINESS DISTRICT TAX

36-5-1 **TAX IMPOSED.** Effective **January 1, 2013** certain taxes are hereby imposed in accord with the provisions of the Illinois Business District Development and Redevelopment Law ("the Law"), **65 ILCS 5/11-74.3-3 (10)** and **(11)** as follows:

(A) A tax to be known as the "Business District Retailers' Occupation Tax" is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this state's government, at retail within the boundaries of the Carlinville Plaza Business District at the rate of **one percent (1%)** of the gross receipts from such sales made in the course of such business while this ordinance is in effect. This "Business District Retailers' Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics.

(B) A tax to be known as the "Business District Service Occupation Tax" is hereby imposed upon all persons engaged within the boundaries of the Carlinville Plaza Business District in the business of making sales of service, at the rate of **one percent (1%)** of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service.

(C) A tax to be known as the "Business District Hotel Operators' Occupation Tax" is hereby imposed upon all persons engaged within the boundaries of the Carlinville Plaza Business District in the business of renting, leasing or letting of hotel rooms within the Business District, at the rate of **one percent (1%)**.

36-5-2 **COMPLIANCE WITH STATUTES.** The imposition of these Business District Taxes is in accordance with the provisions of subsections (B), (C) and (D), respectively, of Section 11-74.3-6 of the Illinois Municipal Code (**65 ILCS 5/11-74.3-6**). The City Council shall adopt an ordinance to discontinue these Business District Taxes such that said taxes shall not be imposed for more than **twenty-three (23) years**, in accordance with Illinois Law, within the time frame necessary to duly notify the Illinois Department of Revenue (not less than **three (3) months** but no more than **eight (8) months** prior to discontinuation).

36-5-3 **ENFORCEMENT.** The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto shall be collected, administered, and enforced in accordance with **65 ILCS 5/11-74.3-6**.

36-5-4 **FILING OF CERTIFIED COPY.** The Municipal Clerk is hereby directed to file a certified copy of this Article with the Illinois Department of Revenue and publish the same as required by law.

(Ord. No. 1682; 10-01-12)

ARTICLE VI – RETAILERS’ OCCUPATION TAX

36-6-1 **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 and registered with an agency of this State’s government, at retail in this Municipality at the rate of **one percent (1%)** of the gross receipts from such sales made in the course of such business while this Article is in effect; and a tax is hereby imposed upon all persons engaged in this Municipality in the business of making sales of service, at the rate of **one percent (1%)** of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service while this Article is in effect. This “Non-Home Rule Municipal Retailers’ Occupation Tax” and this “Non-Home Rule Municipal Service Occupation Tax” shall not be applicable to 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 non-prescription medicines, drugs, medical appliances and insulin, urine testing material, syringes and needles used by diabetics.

The imposition of these non-home rule taxes is in accordance with the provisions of Sections 8-11-1.1, 8-11-1.2, 8-11-1.3 and 8-11-1.4 of the Illinois Municipal Code (**65 ILCS 5/8-11-1.1, 5/8-11-1.2, 5/8-11-1.3 and 5/8-11-1.4**).

36-6-2 **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.

36-6-3 **CLERK TO FILE ORDINANCE WITH ILLINOIS DEPARTMENT OF REVENUE.** The City Clerk is hereby directed to file a certified copy of this Article and a certification that the Article received referendum approval with the Illinois Department of Revenue on or before the **first (1st) day of October, 2013**.

36-6-4 **EFFECTIVE DATE.** This Article shall take effect on the **first (1st) day of January, 2014**, next following the adoption and filing of this Article with the Department of Revenue.

36-6-5 **REPEAL OF CONFLICTING PROVISIONS.** All ordinances and resolutions or parts thereof, in conflict with the provisions of this Article are, to the extent of the conflict, expressly repealed on the effective date of this Article.

(Ord. No. 1709; 08-19-13)

ARTICLE VII - FOREIGN FIRE INSURANCE COMPANIES

36-7-1 **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.

36-7-2 **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.

36-7-3 **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.

36-7-4 **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.**

36-7-5 **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.

36-7-6 **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 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, 2002, 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 - ELECTRICITY TAX

36-9-1 **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**.

36-9-2 **EXCEPTIONS.** None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the "**Municipal Retailer's Occupation Tax Act**" as authorized by **65 ILCS 5/8-11-1**; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Municipality. All accounts of the City shall be exempt from the taxes imposed by this ordinance.

36-9-3 **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-9-4 **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 City upon request. If the person delivering the electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the City in the manner prescribed by the City. 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.

36-9-5 **REPORTS TO CITY.** On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in **Section 36-5-4** and who is not otherwise exempted from paying such tax shall make a return to the City Treasurer for the preceding month stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the City, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-9-6 **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.

36-9-7 **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** in addition, shall be liable in a civil action for the amount of tax due. **(See 65 ILCS 5/8-11-2)**

36-9-8 **UNCONSTITUTIONAL.** In the event that Public Act 90-561 is declared unconstitutional, or if **Section 36-9-1 of Article IX** created by this Ordinance is voided by court action, the provisions of the City Code commonly known as the Gross Receipts Utility Tax shall remain in effect in all respects as if it had never been amended by this Ordinance, and any amounts paid to the City by any person delivering electricity pursuant to this Ordinance shall be deemed to have been paid pursuant to the Gross Receipts Utility Tax as it existed prior to the passage of this Amendatory Ordinance.

ARTICLE X – MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX

36-10-1 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 at the rate of **three percent (3%)** 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 8-11-22, of the Illinois Municipal Code (**65 ILCS 5/8-11-22**).

36-10-2 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. 1810; 09-16-19)

CHAPTER 37 – TREE CODE

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CHAPTER 37

TREE CODE

ARTICLE I - GENERALLY

37-1-1 **TITLE.** This Chapter shall be known and may be cited as the "**Carlinville Tree Code**".

37-1-2 **PURPOSE AND INTENT.**

(A) **Purpose.** It is the purpose of this Code to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs, and other plants within the City.

(B) **Intent.** It is the intent of the City Council that the terms of this Chapter shall be construed so as to promote:

- (1) the planting, maintenance, restoration and survival of desirable trees, shrubs and other plants within the City; and
- (2) the protection of community residents from personal injury and property damage, and the protection of the City from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the community.

37-1-3 **DEFINITIONS.** As used within this Chapter, the following terms shall have the meanings set forth in this Section:

(A) **Arboricultural Specifications and Standards of Practice for Carlinville.** (The title hereinafter, shall be the "Arboricultural Specifications Manual"). A manual prepared by the Carlinville Tree Commission pursuant to the ordinance containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon City-owned property.

(B) **City-Owned Property.** Property within the City limits of Illinois and;

- (1) owned by the City in fee simple absolute or;
- (2) implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic or for public easements.

(C) **Property Owner.** The record owner or contract purchaser of any parcel of land.

(D) **Trees, Shrubs and Other Plants.** All vegetation, wood or otherwise, except lawn grass and flowers less than **twenty-four (24) feet** in height.

37-1-4 **TREE COMMISSION; ESTABLISHMENT, COMPOSITION, APPOINTMENT OF MEMBERS, DUTIES.**

(A) **Establishment.** The Carlinville Tree Commission (hereinafter "Tree Commission") is hereby established. Its functions and duties are limited to those set forth in this Chapter.

(B) **Composition.** The Tree Commission shall be composed of **eight (8) commissioners**. **Five (5) commissioners** shall be appointed by the Mayor with the approval of the Council. These **five (5) commissioners** shall serve without pay and shall reside within the City. The remaining **three (3) commissioners** shall be ex-officio and shall not vote. For example, the **three (3) ex-officio commissioners** may be: a Park District Board Member, and two other qualified persons from the City. Subject to the exceptions in paragraph (C), immediately below, each commissioner of the Tree Commission shall serve for a term of **three (3) years**.

(C) **Appointment of Members.** **One (1)** of the **five (5) commissioners** initially appointed to the Tree Commission, who is not an ex-officio member, shall serve for a term of **one (1) year**, **two (2)** of the **five (5) commissioners** initially appointed shall serve for a term of **three (3) years**. Term shall start on a common date. Determination of the length of terms of the **five (5) commissioners** initially appointed shall be by lot. The Mayor shall designate the Chairperson of the Tree Commission.

(D) **Expiration or Vacation of Terms.** Within **thirty (30) days** following the expiration of the term of any appointed commissioner, a successor shall be appointed by the Mayor with the approval of the Council and the successor shall serve for a term of **three (3) years**. Should any commissioner resign or be removed from the Tree Commission, a successor shall be appointed by the Mayor and shall serve for the unexpired period of the vacated term. A member of the Tree Commission may be removed by the Mayor with the approval of a majority of the Council.

(E) **Duties.** The Tree Commission shall perform the following duties:

- (1) Within a reasonable time after the appointment of the Tree Commission, upon call of the Chairperson of the Tree Commission, the Tree Commission shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this Code.
- (2) The topics under which this advise and consultation may be given may include, but are not limited to, any of the following:
 - (a) amendments to the Tree Code, and alterations or revisions to the Arboricultural Specifications Manual, and alterations or revisions of the Urban Forestry Plan;
 - (b) policy concerning selection, planting, maintenance and removal of trees, shrubs and other plants within the City;
 - (c) allocation of funds for the Tree Commission, and expenditures of funds by the Tree Commission;
 - (d) establishment of educational and informational programs;
 - (e) issuance of permits required by this Code;

37-1-5 TREE COMMISSION'S RESPONSIBILITIES.

(A) The Tree City Commission shall develop an Arboricultural Specifications and Standards Manual to be used for the planting, removal and care of trees and shrubs on Carlinville Property. These plans shall be approved by the City Council. The Tree Commission shall also develop an Urban Forestry Plan for the City.

(B) It will be the duty of the Carlinville Tree Commission to oversee the implementation of Manual and advise Mayor/City Council as necessary.

37-1-6 PERMITS.

(A) **Scope of Requirement.** No person except the City, an agent of the City, public utility company or a contractor hired by the City may perform any of the following acts without first obtaining from the City a permit for which no fee shall be charged, and nothing in this Section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law.

- (1) plant trees or shrubs on City-owned property or treat, prune, remove or otherwise disturb any tree, shrub or other plant located on City-owned property, except that this provision shall not be construed to prohibit owners of property adjacent to City-owned property from watering or fertilizing, without a permit, any tree, shrub or other plant located on such City-owned property;
- (2) trim, prune or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on City-owned property and thereby to cause damage to persons or property;
- (3) place on City-owned property, either above or below ground level, a container for trees, shrubs or other plants;
- (4) damage, cut, tap, carve, or transplant any tree, shrub, or other plant located on City-owned property;
- (5) attach any rope, wire, nail, sign, poster or any other manmade object to any tree, shrub or other plant located on City-owned property;
- (6) dig a tunnel or trench on City-owned property. **(See Chapter 33 – Article IV)**

(B) **Issuance.** Within **seven (7) days** of receipt of the application, the City shall issue a permit to perform within **thirty (30) days** of the day of issuance any of the acts specified in parts (A) and (B), immediately above, for which a permit is requested whenever:

- (1) such acts would result in the abatement of a public nuisance; or
- (2) such acts are not inconsistent with the development and implementation of the Urban Forestry Plan or with any regulations or standards of the Arboricultural Specifications Manual; and whenever;
- (3) an application has been signed by the applicant and submitted to the City detailing the location, number, size and species of trees, shrubs or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used and presenting any additional information that the City may find reasonably necessary;
- (4) the applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Code, the Urban Forestry Plan and with the regulations and standards set forth in the Arboricultural Specifications Manual; and
- (5) the applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan, this Code and of the Arboricultural Specifications Manual which are pertinent to the work for which the permit is sought; and
- (6) if the work for which a permit is issued entails the felling of any tree or part thereof, located on private property, which, as a

result of such felling reasonably may be expected to fall upon City-owned property and if such felling is done by one other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and to hold the City harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the City Clerk a Liability Insurance Policy in the amount of **One Hundred Thousand Dollars (\$100,000.00)** per person/**Three Hundred Thousand Dollars (\$300,000.00)** per accident for Bodily Injury Liability and **Fifty Thousand Dollars (\$50,000.00)** aggregate for Property Damage Liability, which policy shall name the City as an additional insured.

(C) **Public Utility Companies.** Public utility companies, shall notify the City prior to the initiation of pruning cycles which will involve trees located on City-owned property for the purpose of maintaining safe line clearance. The notice shall state the estimated timeframe of the pruning cycle as well as the planned locations in the City where the work will be performed. All pruning work shall be carried out in accordance with accepted arboricultural standards. Public utility companies shall also notify the City prior to the installation or maintenance of underground utilities if such activity will occur within the dripline of trees located on City-owned property. In the case of severe storms, natural disasters or other emergency situations, a public utility company may perform any required pruning or underground utility maintenance necessitated by such situation and thereafter notify the City of the work performed.

37-1-7

PUBLIC NUISANCES.

(A) **Definition.** The following are hereby declared public nuisances under this Code:

- (1) any dead or dying tree, shrub, or other plant, whether located on City-owned property or on private property;
- (2) any otherwise healthy tree, shrub or other plant, whether located on City-owned property or on private property, which harbors insects or diseases which reasonably may be expected to injure or harm any tree, shrub or other plant;
- (3) any tree, shrub or other plant or portion thereof, whether located on City-owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety or welfare of the general public;
- (4) any tree, shrub or other plant or portion thereof whether located on City-owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on City property;
- (5) any tree, shrub or other plant or portion thereof whether located on City-owned property or on private property which dangerously obstructs the view as such may be determined by the City Code Enforcement Officer pursuant to Code.

(B) **Right to Inspect.** The officers, agents, servants and employees, of the City have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

(C) **Abatement.** The following are the prescribed means of abating public nuisances under this Code:

- (1) Any public nuisance under this Code which is located on City-owned property shall be pruned, removed or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
- (2) Any public nuisance under this Code which is located on private owned property shall be pruned, removed or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied.
 - (a) the City shall cause a written notice to be personally served or sent, by registered mail, to the person to whom was sent the tax bill for the general taxes for the last preceding year;
 - (b) such notice shall describe the kind of tree, shrub or other nuisance, its location on the property and the reason for declaring it a nuisance;
 - (c) such notice shall describe by legal description or by common description the premises;
 - (d) such notice shall state the actions that the property owner may undertake to abate the nuisance;
 - (e) such notice will require the elimination of the nuisance no less than **thirty (30) days** after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year.
- (3) The Code Enforcement Officer is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Code Enforcement Officer to be an immediate threat to any person or property.

37-1-8 INTERFERENCE WITH CITY. No person shall unreasonably hinder, prevent, delay or interfere with the City's agents while engaged in the execution or enforcement of this Code.

CHAPTER 38 - UTILITIES

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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 Director of Public Works and employees of the Department. The department shall include any contractor's project manager, its employees, contracted by the City to manage and operate the water and sewer functions of the Utilities Department. The designated office shall be the City Hall. **(Ord. No. 1818; 12-16-19)**

38-1-2 PUBLIC WORKS COMMITTEE. The City Council standing committee on Public Works 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 Director of Public Works shall be subject to the supervision of the Public Works 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 the position 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.

38-1-5 ILLINOIS PUBLIC WORKS MUTUAL AID NETWORK (I.P.W.M.A.N.). The Intergovernmental Agreement with the Illinois Public Works Mutual Aid Network is hereby included as **Addendum "A"** at the conclusion of this Chapter.

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 Services Without Paying.** Any person using utility services from the City without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances, or bypassing any meter, shall be guilty of violating this Code, and upon conviction, shall be fined a sum as provided in **Section 1-1-20** of the Revised Code.

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the waterworks system and sewer system, or erecting signs on the property of the Department without permission shall, upon conviction of such act, be fined as provided in **Section 1-1-20** of the Revised Code.

(E) **Service Obtained By Fraud.** All contracts for water and sewer services shall be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills, or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the deposit as may be necessary to satisfy the unpaid obligation shall be retained by the City and credited to the appropriate account.

(F) **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the following billing shall include the charges for services used during the unbilled month. A month shall be considered as that period of approximately **thirty (30) days**.

(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; Hearing.**

(1) All bills for utility services shall be due and payable upon presentation. The bill shall notify customers that if a bill is not paid by **4:30 P.M.** on the due date printed on the bill, a penalty equal to **fifteen percent (15%)** 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. The Water

- Clerk and designated deputies are not authorized to grant extensions.
- (2) The utility bill shall also notify customers that failure to pay the bill by the end of the calendar month will result in the utility services being disconnected.
 - (3) All bills shall provide customers with notice of their opportunity to contest the bill and their opportunity to request a hearing to challenge the bill.
 - (4) If a hearing is requested, the date, time, and location of the hearing shall be determined by the Mayor, the City Clerk, or the City Treasurer. One of these officials shall preside over the hearing and shall make a final determination as to the rights of the customer and the City based on the information received at the hearing. Termination of the service shall be postponed until the hearing officer renders a final decision. However, failure of the customer to attend the requested hearing will result in termination of services.
 - (5) After a hearing, the customer shall be notified within **five (5) working days** of the decision rendered. If the service is to be discontinued as a result of the decision, the date and time the city will terminate services will be set out in the notice, which shall be sent by first-class mail.
 - (6) If the customer who has been notified for nonpayment of utility bills is not the owner of record, then the City shall notify the owner of the property by first-class mail.
 - (7) Once utility services have been disconnected the same shall not be again connected or used until all delinquent accounts and bills of service are paid in full, including a fee of **Fifty Dollars (\$50.00)** for each connection of such utility services, during normal business hours, and **Seventy-Five Dollars (\$75.00)** for each connection outside of normal business hours, plus expenses incurred in the reconnecting of the utility services. **(Ord. No. 1818; 12-16-19)**

(Ord. No. 1831; 08-02-21)

(I) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Clerk shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the municipality claims a lien for this amount to the period covered by the bill.

If the consumer of utility services whose bill is unpaid is not the owner of the premises and the 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 **sixty (60) 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)**

(J) **Foreclosure of Lien.** Property subject to a lien for unpaid utility charges may be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill-in-equity in the name of the City.

The City Attorney is hereby authorized to institute such proceedings in the name of the City in any Court having jurisdiction over such matters against any property for which the bill for utility services has remained unpaid **ninety (90) days** after it has been rendered. **(See 65 ILCS 5/11-139-8) (Ord. No. 979; 04-16-79)**

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.

[NOTE: The City shall disconnect the utilities when this Code specifies in order for the landlord to be responsible for a delinquent bill.]

38-2-5 DISCONTINUANCE OF WATER SERVICE – CUSTOMER. The customer shall notify the City of any change in occupancy. No adjustment of bills will be made by the City as between the owners or tenants unless **ten (10) days'** notice prior to the change of occupancy has been given to the City. No rebate will be given for unoccupied premises unless notice of non-occupancy is given.

Any customer may discontinue water service by giving the City notice not less than **ten (10) days** prior to the discontinuance, and all liability for charges for service rendered after the discontinuance of service as herein provided for shall cease.

38-2-6 **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.

38-2-7 **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.

38-2-8 **METER MALFUNCTION.** Any municipal water meter shall be taken out and tested upon complaint of the consumer, upon payment of a fee of **One Hundred Dollars (\$100.00).** If upon test the meter is not within **three percent (3%)** of being accurate, it shall be repaired or replaced and the **One Hundred Dollar (\$100.00)** fee returned to the consumer. **(Ord. No. 1818; 12-16-19)**

38-2-9 **UTILITY DEPOSITS.**

(A) **Residential.** When any application is made for utility services in accordance with the provisions of this Chapter, the applicant for whom such service is requested and who does not own the property to be served shall pay a deposit with the application in the amount as follows:

	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
(1) <u>Water and Sewer</u>	\$200.00	\$200.00

(B) **Commercial.** When any application is made for utility services by a commercial or industrial user in accordance with the provisions of paragraph (A) and of this Chapter, the applicant shall pay a deposit with the application in the amount of **Two Hundred Dollars (\$200.00)** for water and sewer service. **(Ord. No. 1818; 12-16-19)**

Where the amount of the deposit provided for above is not sufficient to adequately protect the Water and Sewer Departments a greater amount than stated above may be required, based upon the consumer's estimated bill for a customary billing period.

(C) **Security for Payment - No Interest.** The deposits made under the provisions of this Chapter shall be held by the City as security for the payment of utilities used by the applicant upon the premises to which his application pertains and may be so applied when any default is made in the payment in the utilities bill in accordance with this Chapter. No interest will be paid in the deposits. The depositor shall be refunded, less a processing fee of up to **Twenty Dollars (\$20.00)**, when the service is terminated and all bills, penalties and other charges have been paid in full. **(Ord. No. 1649; 11-21-11)**

38-2-10 FEES. Each and every customer of the water system of the City of Carlinville shall be responsible for and shall pay a water turn on fee of **Fifty Dollars (\$50.00)** at the time of or when billed for the turning on of the water during normal business hours and for switching of customer accounts by the City. Said water turn on fee shall be in the amount of **Seventy-Five Dollars (\$75.00)** whenever the City is requested to turn on the water to a customer outside of normal business hours or as a result of the customer, its family members, agents or employees having damaged the water meter or water line which, in effect, initially caused the City to shut off the water, plus the cost of the actual damages. **(Ord. No. 1818; 12-16-19)**

It shall be unlawful for any individual to tamper with any water meter or to turn on said water meter after being disconnected by the City without authorization to do so. Anyone violating this Code shall be subject to a fine in the minimum amount of **Seventy-Five Dollars (\$75.00)** and a maximum amount of **Seven Hundred Fifty Dollars (\$750.00)**. **(Ord. No. 1640; 07-05-11)**

(A) **Returned.** If a check payable to the City is returned due to insufficient funds, there shall be a charge of **Forty Dollars (\$40.00)** plus the amount due for utility charges by a money order or certified check.

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 Carlinville 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)**

Any property outside of the City limits for which a water tap is applied shall be annexed into the City limits prior to or at the time of receiving the water tap or at any other time agreed to by the City. If said annexation cannot occur at the time of the obtaining of the water tap because of the subject property not being contiguous to the City or because of any other existing State of Illinois laws, rules or regulations, then the owner of the subject property shall sign an appropriate pre-annexation agreement with the City agreeing to annex the property into the City upon it becoming capable of being annexed. **(Ord. No. 1330; 03-04-96)**

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.

The City expressly stipulates with all its consumers and other persons that it will not insure or be responsible or liable in any manner for any losses, or damages, direct or resultant

by reason of any fire, and all water service furnished shall always be conditional upon acts of God, inevitable accidents, fire, strikes, riots, war, or any other cause not within the reasonable control of the City.

38-3-21 WATER WELL PERMITS REQUIRED. It shall be unlawful to drill a water-well in the City without the proper permits from the State of Illinois and the City Council. All wells shall comply with the Cross-Connection Code in this Chapter. No wells shall be drilled when the property is within **two hundred (200) feet** of the municipal water main.

38-3-22 ABANDONED CONNECTION. Whenever any connection to the waterworks system is abandoned, because the building to which the water connection is made has been abandoned, destroyed or removed, the Superintendent may remove the meter and any pipe or connections in the public right-of-way or easement, and cap, plug or otherwise seal the pipe or main. Before taking any such steps the Superintendent shall notify the owner of the real estate if the owner's name and address is known, and shall notify the person shown on the real estate tax records as having paid taxes on the property the last time taxes were paid. Such notice shall be made by mail, at least **thirty (30) days** before any action is taken under this Section. If water is leaking, the Superintendent shall take immediate action, and send the notices within **three (3) working days** of the time action was taken.

38-3-23 ALTERNATIVE WATER SOURCE. Any customer with critical water requirements shall have an alternate water source. Failure to provide such shall be considered a violation of customer rules and loss or damages resulting therefrom shall be the responsibility of the customer. Those customers shall include but not be limited to manufacturers, hospitals, nursing homes, schools, greenhouses, hatcheries or any other building or business which might suffer any type of loss due to interruption of water service.

The City expressly stipulates with all customers and other persons who may be affected by the discontinuance of service that it will neither insure nor be responsible or liable in any manner for any loss or damages, direct or indirect, by reason of fire or any other cause and all water service furnished shall also be conditional upon acts of God, inevitable accidents, failure of supply, fire, strikes, riots or any other causes.

38-3-24 RULES TO BECOME PART OF CONTRACT. All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the City, subject thereto and bound thereby.

38-3-25 - 38-3-30 RESERVED.

DIVISION II - CROSS-CONNECTION ADMINISTRATION

38-3-31 **APPROVED BACKFLOW DEVICE.** All plumbing installed within the City shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

38-3-32 **CROSS-CONNECTION PROHIBITED; EXCEPTION.** No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

38-3-33 **INVESTIGATIONS BY SUPERINTENDENT.** It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-3-34 **RIGHT TO ENTER PREMISES.** The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

38-3-35 **NOTICE TO CUSTOMER; RECONNECT FEE.**
(A) The City Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such

other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **One Hundred Dollars (\$100.00)** is paid to the City Clerk.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

38-3-36 CONTAMINATIONS COST AND THE CONSUMER. The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

38-3-37 - 38-3-40 RESERVED.

DIVISION III - CROSS-CONNECTION CONTROL CODE

38-3-41 PURPOSE. The purpose of these Rules and Regulations is:

(A) To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

38-3-42 APPLICATION. These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

38-3-43 **RESPONSIBILITY OF OWNER.** The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customers water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in **Section 38-3-47(D)** below for a period of at least **five (5) years**. The Superintendent may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

38-3-44 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of these regulations:

"Fixed Proper Air Gap" means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

"Agency" means Illinois Environmental Protection Agency.

"Approved" means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

"Auxiliary Water System" means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

"Backflow" means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

"Backflow Prevention Device" means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

"Consumer" or "Customer" means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

“Consumer’s Water System” means any water system located on the customer’s premises. A building plumbing system is considered to be a customer’s water system.

“Contamination” means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

“Cross-Connection” means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

“Direct Cross-Connection” means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

“Indirect Cross-Connection” means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

“Double Check Valve Assembly” means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

“Health Hazard” means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

“Inspection” means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

“Non-potable Water” means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

“Plumbing” means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

“Pollution” means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

"Potable Water" means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

"Potential Cross-Connection" means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

"Process fluid(s)" means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

"Public Water Supply" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

"Reduced Pressure Principle Backflow Prevention Device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

"Service Connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Survey" means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

"System Hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

"Used Water" means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

"Water Purveyor" means the owner or official custodian of a public water system.

38-3-45 WATER SYSTEM.

(A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

38-3-46 CROSS-CONNECTION PROHIBITED.

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

38-3-47 SURVEY AND INVESTIGATIONS.

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent for the verification of information submitted by the consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with **III. Comp. Stat., Ch. 225, Sec. 320/3.**

(D) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

- (1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.
- (2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.
- (3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.
- (4) Testing and Records
 - (a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 - (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with **III. 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 - EXTENSION OF MAINS

38-3-61 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)**

38-3-62 EASEMENTS. Applicants for main extensions shall deliver, without cost to the City, permanent easements or right-of-way when necessary for the installation and maintenance of the extensions or subsequent additions thereto. The City shall not be obligated to authorize any construction until all requirements of this Chapter have been met.

38-3-63 CONTRACTOR INSTALLS EXTENSION.

(A) The City shall approve all plans and specifications for any extensions.

(B) Before any extensions are installed, the plans and specifications shall be reviewed and approved by the State of Illinois, Environmental Protection Agency.

(C) Ownership, rights-of-way, and title shall be conveyed to the City for all extensions installed by anyone other than the City. The City will maintain the mains after they have been inspected and approved by the municipal engineer.

(D) No extension will be permitted if in the opinion of the City Council the system does not have the necessary capacity to serve the proposed extension.

(E) All legal and engineering fees associated with the extension and charged to the City shall be paid by the developer, unless otherwise provided.

(F) **Building and Plumbing Code Applicable.** The connection of the water main extension into the public water main 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 Material, the Standard Specifications for Water and Sewer Main Construction in Illinois and the EPA testing procedure for new water mains. The City requires two consecutive tests without exception. **(Ord. No. 1685; 11-19-12)**

38-3-64 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.

38-3-65 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.

38-3-66 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.

38-3-67 - 38-3-69 RESERVED.

DIVISION V – 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 TAP-ON FEES.**
(A) The City shall continue to provide the labor for the tap for all lines **one (1) inch** and **three-fourths (3/4) inch**, but the applicant shall be required to provide at his expense the cost of all materials.
(B) For all lines **two (2) inches** or more, the applicant shall provide for all materials including the labor to perform the tap connection for said lines.
(Ord. No. 1730; 06-02-14)

38-3-79 **WATER RATES.** The following monthly rates and charges are hereby established and imposed for the water service, based upon the amount of water consumed by such users:

(A)	<u>Water Users Inside City Limits, Except Water Resellers.</u>	
First	1,500 gallons per month	\$12.95 MINIMUM PER MONTH
Next	8,500 gallons per month	\$8.63 per 1,000 gallons
Next	10,000 gallons per month	\$5.93 per 1,000 gallons
Next	130,000 gallons per month	\$5.38 per 1,000 gallons
Over	150,000 gallons per month	\$2.60 per 1,000 gallons
(B)	<u>Water Users Outside City Limits Except Water Resellers.</u>	
First	1,500 gallons per month	\$19.43 MINIMUM PER MONTH
Next	8,500 gallons per month	\$12.95 per 1,000 gallons
Next	10,000 gallons per month	\$8.91 per 1,000 gallons
Next	130,000 gallons per month	\$8.09 per 1,000 gallons
Over	150,000 gallons per month	\$3.90 per 1,000 gallons

(C) **Water Resellers.** The rate for water purchased by an entity for delivery to others and not for such entity's own consumption is **Six Dollars Twenty-One Cents (\$6.21)** per **one thousand (1,000) gallons** of water. **(Ord. No. 1706; 07-15-13)**

(D) The basic user's water rates established in subsections (A), (B) and (C) herein shall automatically be increased by **five percent (5%)** on **May 1** of each and every calendar year beginning on **May 1, 2019**, and ending on **May 1, 2023**. **(Ord. No. 1801; 04-11-19)**

38-3-80 **REQUESTED SHUT-OFF.** If user requests water to be shut off, there will be a **Twenty-Five Dollar (\$25.00)** fee to have the water turned on again.

38-3-81 - 38-3-84 **RESERVED.**

ARTICLE IV - WASTEWATER SYSTEM

DIVISION I - DEFINITIONS

38-4-1 **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"GOVERNMENT, FEDERAL".

(A) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B) **"Federal Act"** means the Federal Clean Water Act (**33 U.S.C. 466 et seq**) as amended, (**Pub. L. 95-217**).

(C) **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

"GOVERNMENT, LOCAL".

(A) **"Approving Authority"** shall mean the Superintendent of the City or his authorized deputy, agent, or representative.

(B) **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C) **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

(D) **"Inspector"** shall mean the Superintendent or other person or persons duly authorized by the City to inspect and approve the installation of building sewer and their connection to the sanitary sewer system.

"GOVERNMENT, STATE".

(A) **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B) **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C) **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

"CLARIFICATION OF WORD USAGE". "Shall" is mandatory; "may" is permissible.

"WASTEWATER TYPES AND APPURTENANCES"

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five (5) feet (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive sewer, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewer within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean the system of sewer and appurtenances for the collection, transportation and pumping of sewage.

(H) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(I) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewer.

"TREATMENT":

(A) **"Pretreatment"** shall mean the treatment of sewer from sources before introduction into the sewer treatment works.

(B) **"Sewer Treatment Works"** shall mean an arrangement of devices and structures for treating sewer, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "sewer treatment plant" or "pollution control plant".

"TYPES OF CHARGES":

(A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system.

(B) **"Capital Improvement Charge"** shall mean the charge levied on users to improve, extend or reconstruct the sewage treatment works.

(C) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(D) **"Local Capital Cost Charge"** shall mean charges for costs other than the Operation, Maintenance and Replacements costs, i.e. debt service and capital improvement costs.

(E) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(F) **"Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the sewer system.

(G) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.

(H) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation, maintenance and replacement.

(J) **"Sewer Service Charge"** shall be the charge per quarter or month levied on all users of the Sewer Facilities. The service charge shall be computed as outlined in Article IV of this Code and shall consist of the total or the Basic User Charge, the local capital cost and a surcharge, if applicable.

(K) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

"USER TYPES":

(A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the City representative to sample and/or measure discharges.

(B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

(C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings.

(D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.

(E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

(F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

"WASTEWATER FACILITIES" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

"WATERCOURSE AND CONNECTIONS":

(A) **"Watercourse"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(B) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"WASTEWATER AND ITS CHARACTERISTICS":

(A) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days at 20 degrees centigrade (20°C)**, expressed in milligrams per liter.

(B) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".

(C) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from sewer by treatment in an approved pretreatment facility. A sewer shall be considered free of floatable fat if it is properly pretreated and the sewer does not interfere with the collection system.

(D) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(E) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

(F) **"Major Contributing Industry"** shall mean any non-governmental user of the publicly owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average work day; or
- (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
- (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

(G) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or sewer constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and sewer analysis.

(H) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(I) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

(J) **"ppm"** shall mean parts per million by weight.

(K) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewer, with no particle greater than **one (1/2) half inch (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "sewer".

(M) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes more than five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(N) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the I.E.P.A. Division of Laboratories Methods.

(O) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewer and sewer treatment facilities provided.

(P) **"Sewer"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from

residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

38-4-2 - 38-4-3 **RESERVED.**

DIVISION II - USE OF PUBLIC WASTEWATERS REQUIRED

38-4-4 **DEPOSIT OF WASTES.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

38-4-5 **SEWAGE IN NATURAL OUTLET.** It shall be unlawful to discharge to any natural outlet within the City, or in area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

38-4-6 **PRIVATE SYSTEM, UNLAWFUL.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

38-4-7 **CONNECTION TO SYSTEM REQUIRED.** The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary (or combined) sewer of the City is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Code, within **ninety (90) days** after date of official notice to do so, provided that said public sewer is within **two hundred (200) feet** of the nearest property line and adequate to handle the additional connection, where determined to be required.

38-4-8 **COMBINED SEWER ADDITIONS.**
(A) All new construction tributaries to the combined sewer system shall be designed and constructed to minimize and/or delay the inflow contribution to the combined sewer system. **(See 38-4-1 - Definitions)**

(B) All inflow sources on the combined sewer system shall be connected to a storm sewer, within a reasonable period of time, if and when a storm sewer is or becomes available.

(C) Any new building domestic waste connection to the City's sanitary sewer system shall be distinct from the building inflow connection, to facilitate disconnection of the said inflow connection if and when a storm sewer becomes available. **(Ord. No. 1382; 03-02-98)**

38-4-9 **RESERVED.**

DIVISION III - PRIVATE SEWAGE DISPOSAL

38-4-10 **PRIVATE SEWAGE SYSTEM.** Where a public sanitary sewer is not available under the provisions of **Section 38-4-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

38-4-11 **HEALTH DEPARTMENT APPROVAL.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate Health Department. The application for such permit shall be made on a form furnished by the City (**reference Appendix #3**) which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **One Hundred Dollars (\$100.00)** shall be paid to the City at the time the application is filed.

38-4-12 **PERMIT APPROVAL.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **forty-eight (48) hours** of the receipt of written notice by the Superintendent.

38-4-13 **COMPLIANCE WITH STATE REQUIREMENTS.** The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **forty thousand (40,000) square feet**. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

38-4-14 **AVAILABILITY OF PUBLIC WASTEWATER.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-4-7**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

38-4-15 **OPERATION OF PRIVATE SYSTEM.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

38-4-16 **ADDITIONAL RESTRICTIONS.** No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer.

38-4-17 - 38-4-20 **RESERVED.**

DIVISION IV - BUILDING WASTEWATER AND CONNECTIONS

38-4-21 **DISTURBING SYSTEM UNLAWFUL.** No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

38-4-22 **COMPLIANCE WITH REGULATING AUTHORITIES.** All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-23 **CLASSES OF PERMITS.**

(A) There shall be **two (2)** classes of building sewer permits as follows:

- (1) Residential sewer service.
- (2) Service to Commercial or Institutional establishments or industrial sewer service.

(B) In either case, the owner or his agent shall make applications on a special form furnished by the City. **(See Appendix #4)** The fee per connection shall be paid to the City at the time the application is filed pursuant to this Division of this Article.

(C) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. The industry, as a condition of permit authorization, shall provide information describing its sewer constituents, characteristics and type of activity.

38-4-24 **COST BORNE BY OWNER.** All costs and expenses including labor and material incidental to the installation, connection and maintenance of a lateral sewer line shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the lateral sewer lines. This section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

38-4-25 **SEPARATE WASTEWATER: EXCEPTION.** A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; except for sewer connection charges accruing from such buildings or properties.

38-4-26 **OLD BUILDING WASTEWATER.** Old building sewer may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

38-4-27 CONSTRUCTION METHODS. The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the building sewer be less than **four (4) inches**. If **six (6) inch diameter pipe** is used, the slope shall not be less than **one-eighth (1/8) inch** per foot. If **four (4) inch or five (5) inch diameter pipe** is used, the slope shall not be less **one-fourth (1/4) inch** per foot. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. Installation shall be in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All building sewer shall be constructed of materials approved by the City. Generally all building sewer shall be constructed of the following materials:

- (A) Ductile iron pipe
- (B) PVC solid wall plastic pipe (6" diameter maximum) SDR-35

All pipe joints must be gastight and watertight and are subject to the approval of the City. Transition joints from one pipe material to another shall be made using fittings manufactured for such transitions.

38-4-28 PLUMBING CODE REQUIREMENTS. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

38-4-29 ELEVATION. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with **Section 38-4-22** and discharged to the building sewer.

38-4-30 PROHIBITED CONNECTIONS. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

38-4-31 CONNECTIONS TO WASTEWATER MAINS. Building Sewer connections with any sewer shall be made only at manholes or other such junctions as may be provided or designated by the City, and then only in such manner as directed. The connection of the building sewer shall be made at a wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

(A) Installation of a manhole

(B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter. The entire sewer main in the location of the wye and the wye shall be encased in concrete.

(C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of **one-half (1/2) inch** gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

If another method is desired, a detail shall be submitted for review and approval by the City before the connection is made. Indiscriminate breaking of the sewer main pipe is not allowed.

On Site Inspection. After the wye branch has been inserted and jointed, and before any additional fittings have been placed in the service line, the installation shall be approved by the Superintendent, or his authorized representative. After approval is granted the contractor shall encase the work area as specified herein.

Backfill. To be placed in accordance with The Standard Specifications for Water and Sewer Main Construction in Illinois, Current Edition. In addition, any building sewer crossing any street, or traveled alley shall be backfilled with CA-86 backfill material.

Concrete Encasement. When a riser is constructed and its height is **four (4) feet** or more measured from the flowline of the sewer main to the top of the riser pipe, the wye connection shall be encased in concrete to a height of at least **one foot six inches (1' 6")** above the flowline of the sewer main. When the height of the riser is less than **four (4) feet** above the flowline of the sewer main, the wye connection shall be backfilled to the top of the riser pipe with carefully placed and compacted granular backfill.

38-4-32 **CAPACITY OF WASTEWATER.** A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewer facilities, including sewer, pump stations and sewer treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-4-33 **TAP-IN SUPERVISION AND TESTING.** The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

At any time after the installation of the building sewer, the City may test the building sewer for violation of this Code.

38-4-34 **INSPECTION.** After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been

constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet City 's requirements.

38-4-35 PUBLIC WASTEWATER CONNECTION. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois**. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.

38-4-36 PROTECTION OF PROPERTY. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

38-4-37 BOND REQUIRED. If the applicant for the building sewer permit does not have a general bond on file with the City, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-4-38 UNLAWFUL DISCHARGES. All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-39 - 38-4-41 RESERVED.

DIVISION V - EXTENSION OF COLLECTING WASTEWATERS

38-4-42 PERMIT REQUIRED; AUTHORIZED PERSONNEL. No person, other than an authorized employee of the City, shall make any connection with, uncover, alter or disturb a City sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the City, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any City sewer, without first obtaining a written permit to do so from the City. **(See Appendix #2)**

38-4-43 **EXTENSION PERMITS.** Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the City.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the City and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this ordinance and all state and federal requirements, the City shall issue the permit for construction of the sewer. If otherwise, the application for permit shall be denied by the City. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the City, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the City for further consideration.

All permits issued under this Article V shall have an expiration date of **two (2) years** after the date of issuance. Any sewer not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-4-44 **MATERIALS.** All sewer extensions shall be constructed of the following materials:

(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

- (1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.
- (2) PVC sewer pipe SDR-35 conforming to ASTM 03033 or D3034 with joints conforming to ASTM D3212.

(B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and

- (1) of comparable material to the sewer main for VCP and PVC pipe.
- (2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

38-4-45 **INSPECTIONS OF CONSTRUCTION.** Construction of the sewer shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the City before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewer shall be subjected to:

(A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.

(B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;

(C) Under special circumstances, when approved by the City, air pressure testing with allowance to be specified by the City.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the City 's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the City. **(See Appendix #5)**

38-4-46 **MANHOLES REQUIRED.** Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **four hundred (400) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers.

38-4-47 - 38-4-48 **RESERVED.**

DIVISION VI - USE OF PUBLIC WASTEWATER FACILITIES

38-4-49 **DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-4-50 **STORM WATER.** Stormwater and all other unpolluted drainage shall be discharged to such sewer as are specifically designated as storm sewer, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the City, to a storm sewer, or natural outlet.

38-4-51 **REGULATIONS OF WASTES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(A) Any gasoline, benzene, 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 **Sections 38-4-52** and **38-4-73**.

(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. **(See Article IV - Division I of this Code)**

38-4-60 - 38-4-64 **RESERVED.**

DIVISION VII - INSPECTIONS

38-4-65 **DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-4-66 **INSPECTION AND TESTING.**
(A) The Superintendent and other duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.
(B) The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewer or waterway or facilities for waste treatment. **(See Appendix #5)**

38-4-67 **LIABILITY OF CITY.** While performing the necessary work on private properties referred to in **Section 38-4-66** above, the Superintendent or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-4-57**.

38-4-68 **PRIVATE PROPERTY INSPECTIONS.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-4-69 - 38-4-70 **RESERVED.**

DIVISION VIII - INDUSTRIAL COST RECOVERY

38-4-71 **INDUSTRIAL COST RECOVERY REQUIRED.** Each industrial user shall pay that portion of any State grant which has been obtained by the City for the financing of the construction of wastewater treatment works allocable to the treatment of the wastewater from such user. Such users share shall not include an interest component.

38-4-72 **DETERMINATION OF INDUSTRIAL POPULATION EQUIVALENT.**
An industrial user's portion of any State grant shall be based on the population equivalents attributable to wastewater of such user tributary to the wastewater treatment works of the City.

The population equivalents shall be determined as follows:

- (1) **Volume Population Equivalent.** This population equivalent equals the average daily rate of water consumption as determined by the consumption records of the past year divided by **one hundred (100) gallons** per day (the average domestic water consumption) or, where water consumption does not reflect the actual quantity of wastewater tributary to the treatment works from such user, then the average daily flow as recorded in the control manhole required by **Chapter 38-4-58**, divided by **one hundred (100) gallons** per day (the average domestic waste consumption).
- (2) **BOD Population Equivalent.** This population equivalent equals the average daily pounds of BOD in the wastewater as determined by the City in accordance with **Section 38-4-58**, divided by **0.20**

pounds of BOD per day (the average per capita BOD of non-industrial discharges).

- (3) **SS Population Equivalent.** This population equivalent equals the average daily pounds of suspended solids in the wastewater from such user as determined by the City in accordance with **Section 38-4-74**, divided by **0.20 pounds** of suspended solids per day (the average per capita SS of non-industrial discharges).

38-4-73 COST PER CAPITA. The dollar cost per capita shall be determined as follows:

ICR_{Qi}/P.E. = Industrial Cost Recovery per capita (Population Equivalent - P.E.) attributed to flow.

(Capital Cost of Treatment Facility attributable to industry) _____ (% attributed to flow)

ICR_{Qi}/P.E. = Design P.E., Grant Project

ICR_{Qi}/P.E. = $\frac{(\$2,605,000.00) (0.33) \times .75}{10,700 \text{ P.E.}}$

ICR_{Qi}/P.E. = \$60.80/Capita

ICR_{BODi}/P.E. = Industrial Cost Recover per capita (Population Equivalent - P.E.) attributed to BOD.

(Capital Cost of Treatment Facility attributable to industry) _____ (% attributed to BOD)

ICR_{BODi}/P.E. = Design P.E., Grant Project

ICR_{BODi}/P.E. = $\frac{(\$2,605,000.00) (0.33) \times .75}{11,450 \text{ P.E.}}$

ICR_{BODi}/P.E. = \$56.82/Capita

ICR_{SSi}/P.E. = Industrial Cost Recovery per capita (Population Equivalent - P.E.) attributed to Suspended Solids (SS).

(Capital Cost of Treatment Facility attributable to industry) _____ (% attributed to SS)

ICR_{SSi}/P.E. = Design P.E., Grant Project

ICR_{SSi}/P.E. = $\frac{(\$2,605,000.00) (0.34) \times .75}{12,200 \text{ P.E.}}$

$$ICR_{SSi}/P.E. = \$53.33/\text{Capita}$$

38-4-74 COST FOR INDUSTRIAL USER. The cost to be recovered from an industrial user (CI) shall be determined as follows:

$$AICR_{Qi} = \frac{\text{Average Daily Flow Gallons}}{100} (\$60.80) \\ \text{Useful Life (Treatment Works)}$$

$$AICR_{BODi} = \frac{\text{Average Daily BOD, Pounds}}{0.20} (\$56.82) \\ \text{Useful Life (Treatment Works)}$$

$$AICR_{SSi} = \frac{\text{Average Daily SS, Pounds}}{0.20} (\$53.33) \\ \text{Useful Life (Treatment Works)}$$

$$CI = AICR_Q + AICR_{BOD} + AICR_{SS}$$

Where

- AICR_{Qi} = Annual Industrial Cost Recovery payment attributable to flow.
- AICR_{BODi} = Annual Industrial Cost Recovery payment attributable to BOD.
- AICR_{SSi} = Annual Industrial Cost Recovery payment attributable to Suspended Solids.
- CI = Total Annual Industrial Cost Recovery Payment.

38-4-75 CHARGE FOR INDUSTRIAL COST RECOVERY. Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay the cost recovery amount determined by **Section 38-4-74** for such industry, divided by the recovery period. Where an industry is connected to a public sewer after the start-up of the facilities constructed under a State grant, such industry shall only pay its portion of the State grant for each month remaining in the recovery period. Such industry will not be required to pay for those months of the recovery period prior to connection to a public sewer.

38-4-76 LENGTH OF INDUSTRIAL COST RECOVERY PERIOD. The industrial cost recovery period shall be equal to the useful life of the treatment works which shall be **thirty (30) years** from 1979.

38-4-77 PAYMENTS AND BILLINGS PERIODS FOR INDUSTRIAL COST RECOVERY. All industrial users of the City shall pay the cost as determined by **Section 38-4-75** for industrial cost recovery and such payments shall be made quarterly on or before the **tenth (10th) day** of the month immediately following the expiration of the quarter for which

service has been supplied, and in the event such bills are not paid by the **tenth (10th) day** of the month immediately following the expiration of the quarterly period, a service charge of **ten percent (10%)** shall be added thereto.

An industrial user may wish to fulfill its industrial cost recovery obligation by making a lump sum payment for its entire share of the cost of construction of the treatment works. In this event such payments may be accepted by the City and either processed as a normal industrial cost recovery payment, or set aside in a separate account to be drawn on annually for the remainder of the industrial cost recovery period. Lump sum payments by an industry will not relieve an industrial user from the obligation of making additional future payments should its wastewater flow or load increase. Discounts from the total industrial cost recovery requirement will not be given to industrial users making advance or lump sum industrial cost recovery payments. No interest component shall be included in the cost component charged to an industrial user, irregardless of the lump sum or monthly payment method selected by the industrial user. Any interest earned by the City on industrial cost recovery payments set aside will be recoverable in the same manner as if the payments were made as due (**40 CFR 35.928-2a**).

38-4-78 DELINQUENCY AND TERMINATION OF SERVICE. If the delinquency in the payment of the recovery cost continues for a period of more than **thirty (30) days**, the sewer service shall be discontinued. In the event the charges for industrial cost recovery are not paid within **sixty (60) days** after the rendition of that bill, then such service charges shall be deemed and are hereby declared to be delinquent, and thereafter such delinquent charge shall constitute a lien upon the real estate for which such sewer services were supplied. The City Clerk is hereby authorized and directed each month to file sworn statements showing such delinquencies in the office of the Recorder of Deeds of Macoupin County, Illinois, and the filing of such statements shall be deemed notice of a lien for the payment of such charges for sewer service.

38-4-79 TIME OF FIRST PAYMENT. The initial payment made by an industrial user which is connected to a public sewer after the start up of the treatment works constructed with a State grant shall be made by the next scheduled due date as defined in **Section 38-4-77**, and shall be equal to **one-twelfth (1/12)** of the amount as determined by **Section 38-4-75** times the number of months of service in that calendar year.

38-4-80 ADJUSTMENT OF CHARGE DUE TO STRENGTH OR VOLUME CHANGES. If there is a change in the strength and/or volume introduced into the treatment works by an industrial user, as determined by the previous year records, the City shall adjust the users portion of any State grant accordingly.

38-4-81 ADJUSTMENT OF CHANGE DUE TO PLANT IMPROVEMENT UTILIZING STATE GRANT FUNDS. If there is an expansion or upgrading of the treatment works utilizing a State grant, each existing industrial user's share shall be adjusted accordingly.

38-4-82 **NO CHARGE FOR UNUSED OR UNRESERVED CAPACITY.** An industrial user's portion of any State grant shall not include any portion of the grant amount allocable to unused or reserved capacity.

38-4-83 **COMMITMENT FOR INCREASED USE.** An industrial user's portion of any State grant shall include allowance for the cost of any firm commitment to the City for any increased use by such user.

38-4-84 **PAYMENT TO THE STATE OF ILLINOIS REQUIRED.** The City shall retain **fifty percent (50%)** of the amounts recovered from industrial users. The remainder, together with any interest earned thereon, shall be returned to the State of Illinois Anti-Pollution Fund on an annual basis.

38-4-85 **DISPOSITION OF RETAINED AMOUNTS.** **Eighty percent (80%)** of the retained amounts, together with interest earned thereon, shall be used solely for the eligible costs of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the Federal Act and the State of Illinois. The City, prior to commitment of the retained amounts, shall obtain written approval of the Illinois Environmental Protection Agency for any expansion or reconstruction. The remainder of the retained amounts may be used for such expenditures as the City deems appropriate.

38-4-86 **INVESTMENT OF RETAINED AMOUNTS REQUIRED.** Pending use, the grantee shall invest the retained amounts for reconstruction and expansion in:

- (A) Obligations of the U.S. Government; or
- (B) Obligations guaranteed as to principal and interest by the U.S. government or by obligations fully guaranteed as to principal and interest by the U.S. government or any agency thereof.

38-4-87 **SUPERINTENDENT OF WATER AND SEWAGE DEPARTMENT RESPONSIBILITY.** The Superintendent shall maintain the necessary records for determination of user share of the cost and shall provide the billing and collection services as required by **Sections 38-4-72 and 38-4-100.**

38-4-88 **CITY RESPONSIBILITY.** The City shall be responsible for the investment and expenditure of all moneys collected for industrial cost recovery in accordance with **Section 38-4-84, 38-4-85 and 38-4-86.**

38-4-89 **MONITORING REQUIRED.** The City shall maintain a program of monitoring industrial user discharges as the Clerk deems necessary, provided that any major contributing industry shall be monitored no less than **twelve (12) times** annually and any industrial user that has a population equivalent as determined by **Section 38-4-27** greater than or equal to **fifty (50)** shall be monitored no less than once annually. All other industrial

users shall be monitored at such frequency as deemed necessary by the City for determination of the population equivalent of the industrial user. The monitoring data collected shall be used to determine the population equivalent in accordance with **Section 38-4-73**.

38-4-90 **APPEAL AND ARBITRATION.** The City shall establish industrial cost recovery charges as set forth herein, and in accordance with applicable State and Federal guidelines and requirements, and shall notify any industry which requests a permit to discharge into the public sewerage system of the industrial cost recovery charges to be levied. The notification from the City to the industry shall be in writing, and shall be submitted to the industry within **thirty (30) days** after the industry has made application for a connection/discharge permit, and has provided complete and satisfactory information regarding the volume and character of the waste, and has submitted plans for a control manhole with appurtenances, and has received a permit from the Environmental Protection Agency. The City may provide preliminary information regarding industrial cost recovery charges to be levied, but actual charges to be levied shall not be determined until after the above and other stipulations of the Article has been complied with by the industrial user to the satisfaction and approval of the City.

In the event that the industrial user, or other persons affected by the industrial cost recovery system and charges, wishes to have a hearing regarding the reasonableness of the industrial cost recovery charges imposed by the City in accordance with State and Federal regulations, the industry or person shall duly notify the City in writing and request an administrative hearing before the City Council within **thirty (30) days** after the industry has been informed of the actual charges to be levied by the City. Actual discharge of industrial waste to the City system shall not commence until the industry has issued to the City written concurrence with the industrial cost recovery charges. The City shall conduct the administrative hearing within **thirty (30) days** after receipt of written request for the hearing, and the City shall duly notify the industrial user or person, and other interested parties, in writing at least **fifteen (15) days** prior to the hearing date, and identify the time, date and location of the administrative hearing. The Mayor shall serve as the hearing officer, and all testimony received (including written documents) shall be entered into the records of the City as an official meeting of the City Council. The notice of the administrative hearing shall be published in the legal notice section of a newspaper of local distribution at least **fifteen (15) days** prior to the date of the hearing. The legal notice shall state the purpose of the hearing, time, date and place of the hearing. All interested parties shall be given ample opportunity to enter testimony into the record of the administrative hearing.

In the event the City and industrial user cannot agree to the reasonableness of the charges, and the compliance of the charges with regulations set forth by the State and Federal EPA, the industry may request a hearing before representatives of IEPA within **ten (10) days** after the City administrative hearing has been conducted. The City and the industrial user, or the person, shall abide by the decision of IEPA regarding the reasonableness of the industrial cost recovery charges to be levied by the City. In all cases, the industry cost recovery system and charges shall be in accordance with applicable State and Federal regulations.

38-4-91 **DISCONTINUANCE OF USE BY INDUSTRIAL USERS.** If an industrial user discontinues use of the treatment works (including termination of any agreement for use of reserve capacity), its payment for industrial cost recovery will cease. There shall be no requirement for other industrial users using the treatment works at that time to assume the

portion of the industrial cost recovery system payment which is unrecovered due to the departure or discontinuance of service by an industrial user.

If the City chooses to require an industrial user to pay termination of services charges allocable to costs associated with the industrial cost recovery system, payment to the City for such charges shall be in accordance with an agreement stipulating such conditions at the time the City and industrial user mutually agree to conditions of service. Such an agreement shall be in writing and cannot contain an interest component. Funds recovered in such a manner may become the property of the City, unless otherwise stipulated by applicable State or Federal regulations.

38-4-92 RESERVE CAPACITY. The City may choose to permit industrial users to reserve capacity in the treatment works. Such capacity shall be reserved through a formal, written agreement which shall be subject to requirements of the industrial cost recovery system contained herein and in State and Federal regulations.

If the City agrees to allow an industrial user to reserve capacity in the treatment works, the industrial user shall be required to pay the full amount of the industrial cost recovery charges calculated on the full reserved capacity plus additional industrial cost recovery charges for use above the limits of the reserved capacity or any element thereof.

In the event the treatment works are expanded or upgraded in the future with State or Federal grant assistance, an industrial user that has executed a reserve capacity agreement and has made industrial cost recovery payments based upon full reserved capacity will not incur additional industrial cost recovery charges associated with the cost of expansion of capacity of existing unit processes associated with treatment until the industrial user's actual use of the treatment works exceeds its reserved, agreed upon capacity.

Industrial users without reserved capacity contracts will be required to pay any additional industrial cost recovery charges associated with the cost of expanding or upgrading the treatment works.

38-4-93 ENFORCEMENT. Enforcement of **Division VIII** shall be suspended until the City is directed to do otherwise by the Illinois Environmental Protection Agency.

DIVISION IX – SEWER RATES

38-4-94 BUILDING UNIT DEFINED. All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

38-4-95 SEWER REVENUES. All revenues and moneys derived from the operation of the sewer system shall be deposited in the Water Fund. All such revenues and moneys shall be held by the Treasurer separate and apart from his private funds and separate and apart from all other funds of the City and all of said sum, without any deductions whatever,

shall be delivered to the Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may, from time to time, be directed by the City Council.

The Treasurer shall receive all such revenues from the water and sewer systems and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewage Fund of the City".

The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

38-4-96 **SEWER ACCOUNTS.** The Treasurer shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the water and sewer systems and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water and sewer systems.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the sewer facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the sewer plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.
- (F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

38-4-97 **NOTICE OF RATES.** A copy of this Article, properly certified by the City Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the sewer system of the City on their properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to sewer treatment services.

38-4-98 **ACCESS TO RECORDS.** The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the special and general conditions to any state grant or loan.

38-4-99 **APPEALS.** The method for computation of rates and service charges established for user charges shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the

computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

38-4-100 BASIS FOR WASTEWATER SERVICE CHARGES. The sewer service charge for the use of and for service supplied by the sewer facilities of the City shall consist of a basic user charge, applicable surcharges, and debt service charge.

(A) The **debt service charge** is computed by dividing the annual debt service of all outstanding bonds by the number of users.

(B) The **basic user charge** shall be based on water usage as recorded by water meters for wastes having the following normal domestic concentrations:

(1) A **five (5) day twenty degree centigrade (20°C)** biochemical oxygen demand **BOD of 240 mg/l**.

(2) A suspended solids (SS) content of **240 mg/l**.

(C) It shall be computed as follows:

(1) Estimate sewer volume, pounds of SS and pounds of BOD to be treated.

(2) Estimate the projected annual revenue required to operate and maintain the sewer facilities including a replacement fund for the year, for all work categories.

(3) Proportion the estimated operation, maintenance and replacement (OM&R) costs to each user class by volume, BOD, and SS.

(4) Proportion the estimated operation, maintenance and replacement (OM&R) costs to sewer facility categories by Volume, Suspended Solids and BOD.

(5) Compute costs per 1000 gal. for normal sewage strength.

(6) Compute surcharge costs per pound per 1000 gal. in excess of normal sewage strength for BOD and SS.

(D) A **surcharge** will be levied to all users whose waste waters exceed the normal domestic concentrations of **BOD 240 mg/l and SS 225 mg/l**. The surcharge will be based on water usage as recorded by water meters or sewage meters for all wastes which exceed the **200 mg/l and 240 mg/l** concentration for BOD and SS respectively. (**Section 38-4-105** specifies the procedure to compute a surcharge.)

(E) The **adequacy of the sewer service charge** shall be reviewed, not less often than annually, by Certified Public Accountants for the City in their annual audit report. The sewer service charge shall be revised periodically to reflect a change in operation and maintenance costs, replacement costs and reserve fund costs.

(F) The **capital improvement charge** is levied on users to provide for capital improvements, extensions or reconstruction of the sewage treatment works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per 1,000 gallons.

(G) The **users** of sewer treatment services will be notified annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to the sewer treatment operation, maintenance and replacement.

38-4-101 MEASUREMENT OF FLOW. The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of **one thousand (1,000) gallons**.

(A) If the person discharging wastes into the public sewer procures any part, or all, of his water from sources other than the Public Waterworks System, all or a part of which is discharged into the public sewer, the person shall install and maintain, at his expense, water meters of a type approved by the City for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the Approving Authority if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume of waste shall be installed, and maintained by the person and owned by the City. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the City.

38-4-102 SEWER RATES. Beginning on **May 1, 2017**, the following monthly rates and charges are hereby established and imposed for basic user wastewater service:

(A) Wastewater service users, except Bulk Industrial Wastewater Service Users, shall pay **Five Dollars Eighty-One Cents (\$5.81)** per **one thousand (1,000) gallons** of water consumption per month, provided, however, the minimum monthly charge for such users shall be **Five Dollars Eighty-One Cents (\$5.81)**.

(B) All residential wastewater service users connected to the City sewerage system, who are not connected to and/or do not use City water, shall pay a monthly user wastewater service charge of **Thirty-Six Dollars Forty-Five Cents (\$36.45)**.

(C) Bulk Industrial Wastewater Service Users shall pay **Four Dollars Seventy-Six Cents (\$4.76)** per **one thousand (1,000) gallons** of water consumption by such users per month. A Bulk Industrial Wastewater Service User is defined as an entity which purchases more than **two million (2,000,000) gallons** of water per month for their own use.

(D) The above indicated basic user's rates shall automatically be increased by **five percent (5%)** on **May 1** of each and every calendar year beginning on **May 1, 2019**, and ending on **May 1, 2023**. (**Ord. No. 1801; 04-11-19**)

The wastewater service charge for Wastewater Service Users and Bulk Industrial Wastewater Service Users outside the City corporate limits shall be **one hundred fifty percent (150%)** of the applicable service charge as calculated in **Section 38-4-105** of this Code of Revised Ordinances.

(Ord. No. 1706; 07-15-13)

38-4-103 SURCHARGE RATE. The rates of surcharges for BOD₅ and SS shall be as follows:

$$\begin{aligned} SC_{BOD} &= \$0.110 (BOD_i - 240) \times Q_i \times 8.34 \\ SC_{BOD} &= \$0.110 (SS_i - 240) \times Q_i \times 8.34 \\ SC_i &= SC_{BOD} + SC_{SS} \end{aligned}$$

Where

$$\begin{aligned} Q_i &= \text{Total quarterly flow volume expressed in million gallons.} \\ BOD_i &= \text{Biochemical Oxygen Demand Concentration (5 day, 20 degrees Centigrade) of waste expressed in milligrams per liter.} \\ SS_i &= \text{Suspended Solids Concentration of waste expressed in milligrams per liter.} \end{aligned}$$

- SC_{BODi} = Quarterly surcharge in dollars for Biochemical Oxygen Demand for waste concentrations greater than 240 mg/l.
 SC_{SSi} = Quarterly surcharge in dollars for Suspended Solids for waste concentrations greater than 240 mg/l.
 SC_{Ci} = Total quarterly surcharge in dollars.

38-4-104 COMPUTATION OF SURCHARGE. The concentration of wastes used for computing surcharges shall be established by flow measurement and waste sampling. Waste sampling and flow measurement shall be performed as often as may be deemed necessary by the City and shall be binding as a basis for surcharges. **(Ord. No. 936; 04-16-79)**

38-4-105 COMPUTATION OF WASTEWATER SERVICE CHARGE. The wastewater service charge for users within the City corporate limits shall be computed by the following formula:

$$CW = CM + CU (Vu - X) + SC_i$$

Wastewater Service Charge Formula

Where

- CW = Amount of wastewater service charge (\$) per billing period. (Quarterly)
 CM = Minimum charge for operation, maintenance, replacement and debt reduction (subsection (C)).
 Vu = Wastewater volume for the billing period. (Gallons)
 X = Allowable consumption in gallons for the minimum charge (subsection (C)).
 CU = Basic user rate for operation, maintenance, replacement and debt reduction (subsection (C)).
 SC_i = Amount of Surcharge. (subsection (D)) **(Ord. No. 1037; 07-05-83)**

38-4-106 ANNEXATION REQUIRED. Any property outside of the City limits for which a sewer tap is applied shall be annexed into the City limits prior to or at the time of receiving the sewer tap or at any other time agreed to by the City. If said annexation cannot occur at the time of the obtaining of the sewer tap because of the subject property not being contiguous to the City or because of any other existing State of Illinois laws, rules or regulations, then the owner of the subject property shall sign an appropriate agreement with the City agreeing to annex the property into the City upon it becoming capable of being annexed. **(Ord. No. 1391; 07-20-98)**

38-4-107 SEWER CONNECTION FEES.
 (A) The basic fee for connection to the municipal system to serve a single family dwelling shall be **Five Hundred Dollars (\$500.00)** per connection. The basic fee for connection to the municipal system to serve a commercial facility shall be assessed at **One Thousand Dollars (\$1,000.00)**. All connections shall be done by a licensed plumber and the

cost of same shall be borne by the applicant. All road repairs are the responsibility of the applicant, and a **Five Hundred Dollar (\$500.00)** deposit shall be imposed for residential service and a **One Thousand Dollar (\$1,000.00)** deposit for commercial road work to insure such is done correctly and will be returned to the applicant upon final inspection. **(Ord. No. 1729; 06-02-14)**

(B) Sewer connection permits shall be valid only for **sixty (60) days** after issuance.
(Ord. No. 1485; 10-20-03)

38-4-108 - 38-4-109 RESERVED.

DIVISION X - PENALTIES

38-4-110 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.

38-4-111 CONTINUED VIOLATIONS. Any person who shall continue any violation beyond the time limit provided for in **Section 38-4-50** 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.

38-4-112 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 CARLINVILLE

APPLICATION FOR WATER SYSTEM SERVICE CONNECTION
(Section 38-3-2)

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 **fifteen percent (15%)** 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 CARLINVILLE
UTILITY MAIN EXTENSION CONTRACT
(Section 38-3-61)

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **City of Carlinville, 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 CARLINVILLE

BY: _____
PUBLIC WORKS DIRECTOR

ATTEST:

CITY CLERK

DEPOSITOR

WITNESSES:

APPENDIX #3

CITY OF CARLINVILLE

PRIVATE WASTE DISPOSAL APPLICATION

**(SEPTIC TANK ETC.)
(Section 38-4-11)**

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 **two hundred (200) feet [60.96 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 CARLINVILLE

**RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION
(Section 38-4-23)**

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:

- To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances and codes that may be adopted in the future.
- To maintain the building sewer at no expense to the City.
- To notify the City when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: _____, 20____ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 20____

\$ _____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4

CITY OF CARLINVILLE

**INDUSTRIAL SEWER CONNECTION APPLICATION
(Section 38-4-23)**

The undersigned, being the _____ of the
property located at _____ (owner, owner's agent)
_____ 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 CARLINVILLE

**APPLICATION FOR SANITARY SEWER SERVICE CONNECTION
(Section 38-4-23)**

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 **fifteen percent (15%)** 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 CARLINVILLE
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 CARLINVILLE
COUNTY OF MACOUPIN**

DATE: _____

ADDRESS: _____

OWNER(S): _____

APPENDIX #5

CITY OF CARLINVILLE

**CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT
(Section 38-4-66)**

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 CARLINVILLE
COUNTY OF MACOUPIN**

SIGNED: _____

APPENDIX #6

CITY OF CARLINVILLE

UTILITY SHUTOFF HEARING NOTICE
(Section 38-2-1(H))

This notice is being sent to you pursuant to the provisions of **SECTION 38-2-1(H) 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 CARLINVILLE
OBJECTIONABLE MATERIAL EFFLUENT LIMITS
(Section 38-4-53)

<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 CODE

ARTICLE I – GENERAL PROVISIONS AND SAVING CLAUSES

40-1-1 **PURPOSE.** In accordance with State law, this Code regulates structures and land uses in order to preserve, protect, and promote the public health, safety and welfare. More specifically, this Code is intended to assist in achieving the following objectives:

- (A) To encourage the development of buildings and uses on appropriate sites in order to maximize community-wide social and economic benefits while accommodating the particular needs of all residents;
- (B) To discourage development of buildings and uses on sites not suited for development;
- (C) To protect the character and stability of sound existing residential, commercial and industrial areas;
- (D) To conserve and increase the value of taxable property throughout the City;
- (E) To ensure the provision of adequate light, air and privacy to all occupants of all buildings;
- (F) To provide adequate parking and access for all buildings and lots;
- (G) To reduce congestion on the public streets and highways;
- (H) To protect property from damage caused by fire, or by flooding and poorly controlled storm water runoff;
- (I) To guide the provision of water, sewer, storm water, and other utilities and municipal services;
- (J) To reduce the initial costs and future maintenance expenses of public and private improvements and services through thoughtful planning; and
- (K) To gradually eliminate existing structures and uses that impede achievement of the above objectives.

40-1-2 **SCOPE.** In order to achieve the objectives enumerated in **Section 40-1-1**, this Code:

- (A) Divides this entire Municipality into districts, and permits in each district only those structures and uses that are compatible with the character of such district;
- (B) Regulates lots size, and the bulk, setbacks, lot coverage, and manner of use of structures;
- (C) Imposes supplementary regulations to control certain potentially troublesome structures and uses;
- (D) Sets forth standards for off-street parking areas;
- (E) Restricts nonconforming lots, structures, and uses that adversely affect the type of development appropriate in each district; and
- (F) Establishes zoning administrative and enforcement procedures.

40-1-3 **JURISDICTION.** This Code shall be applicable within the corporate limits of the City of Carlinville, Macoupin County, Illinois. The City does not exercise the right to Extraterritorial Jurisdictional Area.

40-1-4 **ANNEXED TERRITORY.** Whenever any territory is annexed to the City, the annexed area shall be zoned the same designation as the contiguous territory that is already within the corporate limits unless otherwise designated by appropriate ordinance.

40-1-5 **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of this Municipality, and every requirement imposed in this Code shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-6 **DISCLAIMER OF LIABILITY.**
(A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of this Municipality shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.
(B) Any suit brought against any officer, board member, agent, or employee of this Municipality, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the City Attorney until the final determination of the legal proceedings.

40-1-7 **SEPARABILITY.** If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

40-1-8 **REPEALER.** All ordinances or parts thereof that conflict with the provision of this Zoning Code are hereby repealed to the extent necessary to give this Code full force and effect.

ARTICLE II - DEFINITIONS

40-2-1 CONSTRUCTION OF TERMS. In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English meanings.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and the plural the singular.

(E) The term "shall" is mandatory.

(F) The term "may" is discretionary.

(G) The term "this Municipality" shall mean the City of Carlinville, Illinois.

(H) The words "lots," "parcel," "tract," and "site" shall be synonymous.

(I) The phrases "used for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for" shall be synonymous.

40-2-2 SELECTED DEFINITIONS.

Abutting: As applied to lots, "abutting" means having a common lot line, or so located in relation to each other that there would be a common lot line but for the existence of a street, alley, or other public right-of-way.

Access Way: A curb cut, ramp, or other means for providing vehicular access to an off-street parking or loading area from a street.

Accessory Building: A subordinate building(s) or structure(s) detached from the main building, located in the rear yard, the use of which is incidental to the use of the principal structure or main building.

Accessory Use: Any structure or use that is:

(A) Subordinate in size or purpose to the principal use or structure which it serves; and

(B) Necessary or contributing to the comfort and convenience of the occupants of the principal use or structure served; and

(C) Located on the same lot as the principal use or structure served.

Adjacent: Next to or adjoining.

Adult Business: Any establishment having as a substantial or significant portion of its stock in trade or business activity in a use such as, but not limited to, the following: adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, adults-only massage parlors, rap parlors, or adults-only saunas, where explicit sexual conduct is depicted and/or sexual activity is implicitly or explicitly encouraged or tolerated.

Adult Entertainment Business: Synonymous with "adult business," "adults-only massage parlor," and "adults-only sauna" as defined herein.

Adult Entertainment Center: An enclosed building or part of an enclosed building which contains one or more coin-operated mechanisms which, when activated, permit a customer to view the human male or female genitalia; pubic hair, buttocks; perineum; anal or pubic regions; or female breast, at or below the areola thereof. In addition, the viewing of a live person, in the above described manner, after paying any admission fee for the viewing of the same activity.

Adults-Only: Any items or activities emphasizing, depicting, describing, or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality, or sadomasochistic activity.

Adults-Only Bookstore: An adults-only establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principle emphasis on matters depicting, describing, or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality, or sadomasochistic activity. An establishment having adults-only items as a substantial or significant portion of its stock, that sells or displays adults-only items for sale to patrons therein.

Adults-Only Cabaret: An establishment or place primarily in the business of featuring topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adults-Only Massage Parlor: An establishment or place primarily in the business of providing massage services where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adults-Only Motion Picture Theater: An enclosed building used regularly and routinely for presenting adults-only material distinguished or characterized by an emphasis on matter depicting, describing, or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality, or sadomasochistic activity, for observation by patrons therein.

Adults-Only Sauna: An establishment or place primarily in the business of providing a steam bath and/or massage services where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Agriculture: Any one or any combination of the following: the growing of farm crops, dairying, pasturage, horticulture, floriculture, or animal/poultry husbandry. The term "agriculture" encompasses the farmhouse, and accessory uses and structures customarily incidental to agricultural activities.

Alley: A public right-of-way which affords vehicular access to abutting premises that front on a nearby street.

Alter: To change, modify or make different the size, shape, elevation or use of a structure.

Amendment: A change in the provisions of this Code (including those portions incorporated by reference), and the procedures set forth herein.

Apartment: A dwelling unit situated in a multiple-family dwelling.

Apartment Hotel: A multiple-family dwelling which furnishes its tenants services customarily provided by hotels, but which does not furnish such services to the transient public.

Attached: As applied to buildings, "attached" means having a common wall and/or a common roof (includes breezeways, carports, garages, etc.).

Auditorium: A room, hall or building made a part of a church, theater, school, recreation building or other building assigned to the gathering of people.

Basement: A story having **one-half (1/2)** or more of its height below the average level of the adjoining ground.

Bed and Breakfast: An operator-occupied residence providing accommodations for a charge to the public with no more than **five (5)** guest rooms for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period. Only breakfast may be provided to the guests. Bed and breakfast establishments shall not include motels, hotels, boarding houses, or food service establishments.

(A) "Operator" shall mean the owner of the bed and breakfast establishment, or the owner's agent, who is required to reside in the bed and breakfast establishment or on contiguous property.

(B) "Guest Room" shall mean a sleeping room intended to serve no more than **two (2)** transient guests per night.

Billboard: A sign advertising a commodity, business, service, or event not available or conducted upon the premises where such sign is located or to which it is affixed.

Boarding House: A building or portion thereof—other than a hotel, motel or apartment hotel—containing lodging rooms for **three (3)** or more persons who are not members of the keeper's family, and where lodging and/or meals are provided by prearrangement and for definite periods.

Booth: Any enclosure that is specifically offered to patrons of an adult business for the private viewing of any adults-only item or movie. Said definition does not include enclosures that are used as private offices by any operator, employee, or agent for attending to the tasks of their employment and are not offered for use by the public.

Building: Any covered structure permanently affixed to land and designed or used to shelter persons or moveable, personal property.

Building Height: The vertical distance measured from the average elevation of the proposed finish grade at the front wall of the building to the highest point of the roof.

Building Line: The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

Bulk: Any one or any combination of the following:

- (A) Size or height of structure;
- (B) Location of exterior walls at all levels in relation to lot lines, streets, or other structures;
- (C) Floor/area ratio;
- (D) Yards or setbacks;
- (E) Lot coverage (see definition).

Camping Trailer: A mobile structure designed for temporary occupancy.

Camping Trailer Park: A lot developed with facilities for accommodating temporarily occupied camping trailers.

Certificate of Zoning Compliance, Initial: A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Code and may, therefore, proceed.

Certificate of Zoning Compliance, Final: A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

Church: A building designed or used for regularly scheduled worship services.

Club/Lodge: A nonprofit association of persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests.

Commercial Use/Establishment: Any use or establishment wherein goods are purchased, converted or sold, whether to the consuming public (retail) or to other businesses (wholesale), but excluding any heavy industrial use. Operations on commercial property shall be such that they are not noxious or offensive by reason of the emission of smoke, dust, gas, fumes, odors, noise, or other vibrations beyond the confines of the buildings used therefore.

Community Residence: A group home or specialized residential care home serving unrelated persons with handicaps which is licensed, certified or accredited by appropriate local, state or national bodies. **Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse, or for treatment of communicable disease.**

Community Residence - Large: A community residence serving **nine (9) to fifteen (15) persons** with handicaps.

Community Residence - Small: A community residence serving **eight (8) or fewer persons** with handicaps in a family-like atmosphere.

Conforming: In compliance with the applicable provisions of this Code.

Convenience Shop: Any retail commercial or service establishment offering goods/services.

Day Care Center: See "Nursery School."

Deck: An open porch which has no roof, is generally open on the sides, is above ground level, and its intended use is for leisure enjoyment.

Detached: As applied to buildings, "detached" means surrounded by yards, parking lots, etc. on the same lot as the building.

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

District Zoning: A portion of the territory of this Municipality wherein certain uniform requirements apply to structures, lots and uses under the terms of this Code.

Driveway: An area established or used for ingress or egress of vehicles from a street or thoroughfare to any point on private or public property.

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, and other accommodations for the transient public. Modular dwellings on permanent foundations shall be treated in the same manner as conventionally constructed dwellings (see definition for modular and permanent foundation).

Dwelling, Multiple-Family: A building or portion thereof containing **two (2)** or more dwelling units.

Dwelling, Single-Family: A detached dwelling containing one dwelling unit and intended for the occupancy of one family.

Dwelling, Two-Family/Duplex: A dwelling containing **two (2) dwelling units**.

Dwelling Unit: One or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes a bathroom and a kitchen.

Education: The act or process of obtaining knowledge and/or skills by instruction.

Enlarge: To increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

Erect: To put up by the fitting together of materials or parts such as a building.

Establishment: Either of the following:

(A) an institutional, business, commercial, or industrial activity that is the sole occupant of one or more buildings; or

(B) an institutional, business, commercial, or industrial activity that occupies a portion of a building such that:

- (1) the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and
- (2) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

Existing: Existing, constructed, or in operation, on the effective date of this Code.

Extend: To increase the amount of floor area or land area devoted to an existing use.

Extraterritorial Jurisdictional Area: The **Illinois Compiled Statutes, Chapter 65, Section 5/11-12-6** grants municipalities in the State of Illinois planning and zoning authority **one and one-half (1 ½) miles** beyond their corporate limits.

Factory-Built Home: Any residential dwelling that is wholly, or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site on a permanent foundation (see definition for Permanent Foundation). Factory-built homes shall include, but are not limited to, manufactured homes (A) and modular homes (B).

(A) **Manufactured Homes.** A residential dwelling built in accordance with the Federal Manufactured Home Construction and Safety Standards.

(B) **Modular Home.** A residential dwelling built in a factory to a residential construction code other than the Federal Manufactured Home and Safety Standards, built and transported in sections or halves. A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel or other approved location. This will distinguish a modular from a mobile home which has a 2-inch by 4-inch metal plate mounted on the taillight (rear) end of the mobile home. Modular housing is similar in many ways to conventionally constructed housing including construction on a permanent foundation (see definition for Permanent Foundation). Modular housing as herein defined shall be considered single-family dwellings.

Family: An individual or couple and children thereof and no more than **two (2)** other persons directly related to the individual or couple by blood or marriage, or a group of not more than **three (3) persons** not related by blood or marriage living together as a single housekeeping unit in a dwelling unit. **(Ord. No. 1757; 08-17-15)**

Filling Station: A building and premises or portion thereof designed and primarily used for the retail sale of gasoline or other motor fuel, oil, and motor vehicle parts, supplies, and accessories. A filling station may include secondary facilities for washing vehicles, for making minor automotive repairs and for other uses normally called a convenience store.

Floor Area, Gross: As used in determining floor/area ratios and parking requirements, the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes all of the following: basement floors; attic floor space; halls, closets, stairwells; space devoted to mechanical equipment; and enclosed porches.

Freight Terminal: A building to which freight is brought by truck, air or railroad freight cars for later distribution.

Frontage: The lineal extent of the front (street-side) of a lot.

Garage, Private: An accessory building or portion of a main building designed or used for the primary purpose of parking and storage of motor vehicles of the occupants of the premises.

Garage, Public: Any building or premises, other than a private garage, used for equipping, refueling, servicing, repairing, hiring, selling, or storing of motor vehicles.

General Commercial: An area permitting the construction and/or operation of businesses or organizations in categories such as retail and service uses, filling stations, day care centers, offices, mini-warehouses, storage facilities, eating and drinking places, public utility buildings, motor vehicle services and hotels. **(Ord. No. 1586; 03-16-09)**

Governmental: The agency, machinery, or organization through which a political institution or unit exercises authority and performs duties.

Grandfathered: Creating an exemption based on circumstances previously existing to the effective date of this Code. All construction projects "Grandfathered" at the conception of this Code in 2002 shall have a **five (5) year** expiration. **(Ord. No. 1564; 01-21-08)**

Heavy Industrial: A use engaged in the basic processing, fabricating and/or manufacturing of materials or products, or a use engaged in storing of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that involve hazardous or commonly recognized offensive conditions or hazardous materials.

Home Occupation: A home occupation is an occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

Hospital: An institution devoted primarily to the maintenance and operation of facilities around-the-clock for the diagnosis, treatment, or care for members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this Code does not include institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, nor does it include convalescent or nursing homes.

Hotel: An establishment containing lodging accommodations designed for use by travelers or temporary guests. Facilities provided may include a general kitchen, maid service, desk service, meeting rooms, restaurants, cocktail lounges, and similar ancillary uses, but not cooking facilities in guest rooms.

Immobilized Mobile Home: As applied to a mobile home, "immobilize" means to remove the wheels, tongue and hitch and place on a permanent foundation.

Industrial: Area developed for, used in, or relating to an industry.

Intersection: The point at which two or more public rights-of-way (generally streets) meet.

Junk Yard: Any area where waste, discarded or salvaged material are bought, sold, exchanged, baled or packed, disassembled, handled, or stored, but not including areas where such uses are conducted entirely within a completely enclosed building.

Kenel: Any lot or premises on which **three (3) or more dogs**, cats, or other household domestic animals, over **four (4) months** of age, are kept for remuneration.

Light Industrial: The use engaged in the process of the assembly, packaging, storage, and distribution of previously prepared materials but specifically excluding heavy industrial use. Light industrial use would be such a use that would normally only use light machinery and which activities are carried on entirely within the enclosed, roofed building, which do not use the area around such building for storage of matter or finished product or for loading or unloading operations, and which operations are not noxious or offensive by reason of the emission of smoke, dust, gas, fumes, odors, noise, or other vibrations beyond the confines of the building used therefor.

Live Adult Entertainment: Live, in person performance by individuals.

Loading Space: An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot: Land occupied or intended to be occupied by one main building and its accessory buildings and including as a minimum such open spaces exclusive of street areas as are required under this Code and having frontage on a public or private street or road.

Lot, Corner: A lot having at least **two (2)** adjacent sides that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

Lot, Through: A lot having a pair of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lines of a lot.

Lot Coverage: The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures. For residential categories, the main building shall not occupy more than **sixty percent (60%)** of the lot, including porches but excluding decks and patios. This applies to newly constructed homes and additions to existing structures.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line of a lot.

Lot Line, Front: The lot boundary abutting the street.

Lot Line, Rear: An interior lot line which is most distant from and most nearly parallel to the front lot line. The rear lot line on corner lots shall be defined as the line most distant and most nearly parallel to either of the front lot lines as defined elsewhere in these definitions.

Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record: Any area of land designated as a lot on a plat of subdivision recorded or registered with the Recorder of Deeds of Macoupin County, Illinois, in accordance with State law.

Lot Size Requirement: Refers to the lot area, width, and depth requirements of the applicable district.

Lot Size/Bulk Variance: A relaxation of the strict application of the lot size and/or bulk requirements applicable to a particular lot or structure.

Lot Width: The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the rear line of the required front yard (building lines), especially on irregularly shaped lots.

Maintenance, General: The routine upkeep of a structure, premises or equipment, including the replacement or modification of structural components to the extent necessary to keep a structure in sound condition. **(Ord. No. 1564; 01-21-08)**

Massage Parlor: An establishment or place primarily in the business of providing massage services.

Mini-Warehouses: A building, or part of one, for the storage of goods, merchandise, etc., for rent to individuals for a monthly fee.

Mobile Home: A manufactured structure designed to permit its transport on its own wheels, containing complete kitchen and sanitary facilities, and used as a long-term dwelling by one family. A mobile home is built on a permanent chassis that consists of the wheel assembly, undercarriage, and towing hitch assembly. Mobile homes must meet the Federal Mobile Home Construction and Safety Standards. Compliance with this standard can be indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the mobile home.

Mobile Home Park: A parcel not less than **two (2) acres** in area in single ownership/ control, developed with facilities for accommodating occupied mobile homes in accordance with the requirements of this Code.

Mobile Home Stand: The part of a mobile home extending the full length of the upperside supports of the mobile home constructed of a concrete slab or runners on which the home is placed.

Modulars (Sectional Houses): Built and transported in sections or halves. A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel. This will distinguish a modular from a mobile home which has a 2-inch by 4-inch metal plate mounted on the tail light (rear) end of the mobile home. Modular housing is similar in many ways to conventionally constructed housing including construction on a permanent foundation (see definition for permanent foundation). Modular housing as herein defined shall be considered as single family dwellings.

Motel: A lodging facility usually with blocks of rooms opening directly onto a parking area. Also called motor court.

Motor Vehicle Services: Repairs to any or all motor vehicles including boats. Services to include body work and glass work.

Multi-Use Residential and Commercial Building: A building in the C-1 Neighborhood Commercial District that has separate residential and commercial areas in the same building. **(Ord. No. 1772; 08-01-16)**

Multiple-Family Residence: See "Dwelling, Multi-Family".

Neighborhood Commercial: An area permitting the construction and/or operation of businesses or organizations in categories such as retail and service uses, filling stations, day care centers, offices, mini-warehouses, storage facilities, eating and drinking places, and public utility buildings. **(Ord. No. 1586; 03-16-09)**

Nonconforming: A use, building or yard which does not, by reason of design, use, or dimensions, conform to the regulations of the district in which it is situated. It is a legal nonconforming use if established prior to the passage of this Code.

Nudity: The display of the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; female breast, at or below the areola thereof, with no covering or with a less than fully opaque covering; or male genitalia, in a discernible turgid state, with or without covering.

Nursery: A tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

Nursery School: An establishment for the part-time care and/or instruction (at any time of day) of **four (4)** or more unrelated children of predominantly pre-elementary school age.

Nursing Home: A building used as a medical care facility for persons who need long-term nursing care and medical service, but do not require intensive hospital care.

Obscene: Any material or performance is obscene if:

(A) The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and

(B) The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions, or lewd exhibition of the genitals; and

(C) Taken as a whole, it lacks serious literary, artistic, political, or scientific value. **(720 ILCS 5/11-20)**

Office: Any building, or portion thereof, in which the business of a commercial/service enterprise or professional person is transacted.

Off-Street Parking Area: Land that is improved and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking area," depending on the circumstances of its use, may be either a principal use or an accessory use.

Off-Street Parking Space: A space other than a street or alley designed for use for the temporary parking of a motor vehicle.

Operator: Any person, (whether said person be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager), that conducts, maintains, or owns any adult business.

Park: A piece of ground for public use, recreation and sports.

Patio: An at-grade-paved area without any walls usually adjacent to a building, and which is intended to be used as an outdoor lounging, dining, or entertaining area.

Patron: Any customer, patron, or visitor to an adult business who is not employed by an operator of said establishment.

Permanent Foundation: A permanent support for buildings that are constructed of conventional foundation materials such as concrete or cement blocks. The foundation footing shall extend below the frost line.

Permitted Uses: Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

Person: Any individual, firm, association, organization, or corporate body.

Plan: The geographical and topographical maps, engineering and architectural drawings and specifications, and other information indicating the location and nature of a development.

Porch: A structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, usually covered with a roof, generally open-sided, and usually large enough to allow seating devices.

Premises: A lot and all the structures and uses thereon.

Principal Building/Structure/Use: The main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

Private Street: Any street providing access to abutting property that is not maintained by and dedicated to a unit of government.

Rap Parlor: An establishment or place primarily in the business of providing nonprofessional conversation or similar services for adults, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encourages or tolerated.

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after destruction.

Recreational Vehicle (RV) Park: See Camping Trailer Park.

Refuse: Garbage (food wastes) and trash, but not sewage or industrial wastes.

Rehabilitation: The restoration or reestablishment of a condition of health or useful and/or constructive activity.

Religion: Relating to the acknowledgement or worship of an ultimate reality or deity.

Relocate: To move to another portion of a lot or to a different lot.

Repair: To restore to sound condition, but not to reconstruct.

Retail: Refers to the sale of goods and services directly to the consumer rather than to another business.

Right-of-Way, Public: Land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys, or land that has been laid out in the original Plat of the City as a public right-of-way.

Roof: An outside structure covering a building including the framework supporting the covering.

Sadomasochistic Activity: Flagellation or torture by or upon a nude person, a person clad in undergarments, a mask, or bizarre costume. In addition, the condition of being fettered, bound, or otherwise physically restrained with the intent to stimulate or arouse sexually the initiator and/or the recipient.

Sanitary Landfill: A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency.

Satellite Dish: Any parabolic/dish-type apparatus, external to or attached to the exterior of a building or structure, capable of receiving, for the benefit of the principal use, television or radio signals. Satellite dishes are larger than **thirty-nine (39) inches** are considered an accessory use and require a permit.

Sauna: An establishment or place primarily in the business of providing a steam bath and/or massage services.

Sell: Includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell.

Setback: The distance between the front lot line and the building line; or between a side or rear lot line and the side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

Sexual Conduct: Intimate sex acts (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality or sadomasochistic activity. In addition, physical contact intended to stimulate or arouse sexually the initiator and/or the recipient.

Single-Family Residence: Synonymous with Single-Family Dwelling.

Skirting: The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

Special Use: A use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district, and are allowed only by permit.

Stable: A structure, situated on the same lot as a dwelling, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

Stoop: A small porch which is usually not covered with a roof and which is primarily used to provide access to the adjoining building.

Street: A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way for pedestrian use only.

Street Line: The street right-of-way line abutting a lot line.

Structure: Anything constructed or erected on the ground, or attached to something having a fixed location on the ground. All buildings are structures, but not all structures are buildings.

Structure, Temporary: Any structure that is placed on the property for not more than **ninety (90) days. (Ord. No. 1564; 01-21-08)**

Temporary Use Permit: A permit issued in accordance with the provisions of this Code and valid for not more than **one (1) year**, which allows the erection/occupation of a temporary structure or the operation of a temporary enterprise.

Topography: The relief features or surface configuration of an area.

Trailer: See "Camping Trailer."

Underage: Any person under **eighteen (18) years** of age, the legally minimum age at which one can purchase or view adults-only items. **(720 ILCS 5/11-20)**

Use: The purpose or activity for which land or a structure thereon is designed, arranged, intended, occupied, or maintained.

Utility Substation: A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

Variance: A license or permit to do some act contrary to the usual rule.

Vending Machine: An apparatus for the purpose of selling an item or disposing of an item by sale.

Wall Sign: Any flat sign which is placed against a building or other structure and attached thereto in such a manner that only one side is visible.

Wholesale: Refers to the sale of goods or services by one business to another business.

Yard: Open space that is unobstructed except as specifically permitted in this Code and that is located on the same lot as the principal building.

Yard, Front: A yard which is bounded by the front lot line and the building line.

Yard, Rear: A yard which is bounded by side lot lines, rear lot lines, and the rear yard line.

Yard, Side: A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

Yard Line: A line in a lot that is parallel to the lot line along which the applicable yard extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

Zoning District: A partition of a municipality by Ordinance divided into sections reserved for different purposes and uses.

Zoning Administrator: The official appointed by the Mayor, with the advice and consent of the City Council, to administer this Code and perform the other duties as set forth in the Code for said Zoning Administrator. **(Ord. No. 1586; 03-16-09)**

Zoning Map: The map(s) and any amendments thereto designating zoning districts. The zoning map is incorporated into this Code.

ARTICLE III – GENERAL ZONING REGULATIONS

40-3-1 **ESTABLISHMENT OF DISTRICTS.** In order to implement this Code, and to achieve the objectives in **Article I**, the entire Municipality is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>
Agricultural	A
Single Family Residence	S-1, S-2
Mobile Home Residence	MH
Multiple Family Residence	MF
Neighborhood Commercial	C-1
General Commercial	C-2
Industrial	I
Governmental	G
Religion, Rehabilitation, Education	R
City Park	P

Each district is defined in **Section 40-2-2**. Each district’s permitted principal building and accessory uses are listed in **Schedule 40-3-19**.

40-3-2 **ZONING MAP AND DISTRICT BOUNDARIES.** The boundaries of the listed zoning districts are hereby established as shown on the zoning map of Carlinville. The zoning map, including all notations and other information thereon, is hereby made a part of this Code by reference. Official copies of the zoning map shall be kept on file in the office of the City Clerk and/or Zoning Administrator.

40-3-3 **ANNUAL PUBLICATION.** In accordance with State Law, the City shall publish the zoning map not later than **March 31st** of each year. However, no map shall be published for any calendar year during which there have been no changes in zoning districts or regulations.

40-3-4 **DETERMINING TERRITORY OF DISTRICTS WITH PRECISION.** In determining with precision what territory is actually included within any zoning district, the City shall apply the following rules:

(A) Where a district boundary as indicated on the zoning map approximately follows the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary:

- | | |
|---|---------------------------------|
| (1) Center line of any street, alley or highway | Such centerline. |
| (2) Lot line | Such lot line. |
| (3) Railroad tracks | Right-of-way line of such track |

(B) Whenever any street, alley or other public way is legally vacated, the zoning districts adjoining each side of such vacated public way shall automatically extend to the center of such way, and all territory included in the vacated way shall thereafter be subject to all regulations of the extended districts unless otherwise designated in the ordinance vacating the public way or in any other ordinance.

(C) All territory (including bodies of water) that lies within the zoning jurisdiction of this Municipality, but which is not shown on the zoning map as being located within any district, shall comply with the zoning regulations of the most restrictive adjoining district.

40-3-5 **GENERAL PROHIBITION.** No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated or reconstructed except in conformity with the provisions of this Code. Similarly, no lot or part thereof shall be used, occupied, or developed except in conformity with the provisions of this Code.

(A) **Agricultural Exemption.** The provisions of this Code shall not be interpreted or administered so as to restrict the erection, maintenance, alteration, or extension of buildings (including farmhouses) or structures used or intended to be used for agricultural purposes on agricultural land except that such buildings or structures shall be required to conform to applicable setback regulations. Whenever a portion of a tract of land ceases to be used primarily for agricultural purposes, all pertinent provisions of this Code shall apply to that portion.

40-3-6 **UNLISTED USES PROHIBITED.** Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the City Council, following consultation with the Zoning Administrator, finds that the unlisted use is similar to and compatible with the listed uses, they may amend this Code in accordance with **Section 40-10-8** to allow such use. The Council's decision shall become a permanent public record, and any unlisted use that they approve shall thereafter have the same status as listed uses.

40-3-7 **TEMPORARY USES.** Except as specifically provided otherwise in this Code, no temporary structure shall be used or occupied for any purpose, and no land shall be used for any temporary enterprise, whether for profit or not-for-profit, unless a temporary use permit has been obtained. Applications for temporary use permit shall be treated in the same way as applications for special use permits. A temporary use permit shall be valid for not more than **one (1) year** unless it is properly renewed (**See Section 40-10-7**).

40-3-8 **ONE BUILDING AND ALL YARDS ON ONE LOT.** Except as specifically provided otherwise:

(A) Only one principal building or structure shall be permitted on any residential lot; and

(B) No portion of any minimum area, minimum dimensions, or minimum yards required for any lot, structure, or use shall be counted to satisfy the minimum area, dimensions, or yards requirements for any other lot, structure or use.

40-3-9 **ACCESS REQUIRED.** No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to, a public street or a private street.

40-3-10 **LIMITATIONS.** See Schedules (**Article III, Section 40-3-18 and 40-3-19**) for limitations and schedule listings located at the end of this Code.

40-3-11 **FRONT SETBACKS - CORNER/THROUGH LOTS.** Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

40-3-12 **FRONT SETBACKS IN CERTAIN BUILT-UP AREAS.** Except as specifically provided otherwise, in the Residential zoning district and in the Community Business district, where lots having **fifty percent (50%)** or more of the frontage on one side of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback on that block shall be the average of the existing front setbacks; provided however, that in any built-up area, no front setback shall be less than **fifteen (15) feet**, nor shall any front setback greater than **fifty (50) feet** be required.

40-3-13 **EXCEPTIONS TO HEIGHT LIMITS.**

(A) **Necessary Appurtenances.** Chimneys, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations for the district in which they are located if they comply with all other pertinent ordinances of the City.

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by the street lines that are within **twenty-five (25) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that exceeds **four (4) feet** above the level of the adjacent street.

40-3-14 **EXCEPTIONS TO SETBACK LINES.** Certain intrusions into the required setback areas are permitted, to-wit:

(A) Where principal buildings are commonly attached as in the downtown business area.

(B) Canopies and roof overhangs up to the extent of **three (3) feet** into the setback area.

40-3-15 **ACCESSORY USES.** An "accessory use" means any structure or use which is:

(A) Subordinate in size or purpose to the principal structure or use which it serves; and

(B) Necessary or contributing to the comfort and convenience of the occupants (whether individuals or a commercial enterprise) of the principal structure or use served; and

(C) Located on the same lot as the principal structure or use served.

40-3-16 **SPECIFICALLY PROHIBITED ACCESSORY USES.** The following accessory uses are strictly prohibited unless expressly permitted in particular zoning district(s):
(A) Use of an accessory structure as a dwelling.

40-3-17 **SEWERS, SEPTIC TANKS.** In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the applicable codes and ordinances of this Municipality.

40-3-18 **SCHEDULE; AREA AND BULK REGULATIONS; PARKING REQUIREMENTS.** (See Schedule 40-3-18 located at the end of this Code)
(A) To facilitate public understanding of this Code and for the better administration and convenience of the use thereof, the regulations limiting the dwelling unit density, the heights, bulk and arrangement of buildings, and requiring minimum off-street parking for each of the districts established by **Section 40-3-1** hereof (or specified use), are set forth in **Schedule 40-3-18** hereof. Such **Schedule 40-3-18** is hereby adopted and declared to be an integral part of this Code, and it may be amended in the same manner as any other part of this Code.

40-3-19 **SCHEDULE; PERMITTED USES, ACCESSORY USES; SPECIAL USES.**
(See Schedule 40-3-19 located at the end of this Code)
(A) To facilitate public understanding of this Code and for the better administration and convenience of use thereof, the regulations designating permitted uses, permitted accessory uses, special uses and specifically prohibited uses for each of the districts established by **Section 40-3-1** hereof, are set forth in **Schedule 40-3-19** as part of **Section 40-3-1** hereof. Such **Schedule 40-3-19** is intended and declared to be an integral part of this Code and it may be amended in the same manner as any other part of this Code.
(B) Each column refers to a specific district which lists the permitted uses, permitted accessory uses and special uses, and are read vertically under a district column.
(C) Limitations and requirements in **Schedule 40-3-19** as used in a column shall mean and include the specific limitations and requirements as set forth in the same column for the district referred to. Where reference is made in **Schedule 40-3-19** to another section or provision of this Code, such section or provision referred to shall thereby be incorporated as an integral part of the requirements including such reference. All provisions of this Code shall apply as integral parts of this Section although not specifically cited as a column.

ARTICLE IV - SUPPLEMENTARY ZONING REGULATIONS

40-4-1 **APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome structures and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special use permit. But if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-4-2 **CAMPING TRAILERS.** The regulations of this Section do not apply to camping trailers or other similar recreational vehicles parked in a permitted camping trailer park. The requirements of paragraphs (A), (C), and (D) do not apply to camping trailers or other similar recreational vehicles parked on a permitted camping trailer sales lot.

(A) Only one camping trailer or other similar recreational vehicle can be parked on any one lot of a dwelling. A second camping trailer or similar recreation vehicle can be parked not to exceed **fifteen (15) consecutive days** in length during a **twelve (12) month** period.

(B) No camping trailer or other similar recreational vehicle shall be used as living quarters (other than in a camping trailer park).

(C) No camping trailer or other similar recreational vehicle shall be used as an office or for any other commercial purpose.

(D) No camping trailer or other similar recreational vehicle shall be parked on any front yard, except on a driveway.

40-4-3 **FENCES, WALLS.**

(A) No barbed wire fence, electrically charged fence or razor wire fence shall be erected anywhere in the Municipality, except barbed wire may be installed in Industrial Zoning Districts and General Commercial Districts at heights above **seven (7) feet** on fences otherwise in compliance with this Code. **(Ord. No. 1646; 09-19-11)**

(B) No fence, wall or other obstructions shall be erected within any public right-of-way without the written approval of the Zoning Administrator.

(C) No fence, wall, or other obstruction shall be erected in violation of the Illinois Drainage Code.

(D) Every fence, wall or other obstruction shall conform to the special height restrictions applicable in areas near intersections **(See Section 40-3-13(B))**. No fence, wall or other obstructions in any front yard area shall exceed **six (6) feet** in height or in any rear or side yard exceed **ten (10) feet** in height.

(E) Every fence, wall, or other obstruction shall have a minimum **eighteen (18) inch** setback from the property line, except as in (G) below.

(F) No fence, wall, or other obstruction should obstruct view at an intersection.

(G) A shared fence on a property line is permitted as long as both parties sign an agreement.

(H) Wood, vinyl or composites, wrought iron and chain-link will be allowed. All other types require a variance. **(Ord. No. 1564; 01-21-08)**

40-4-4 FILLING STATIONS.

- (A) All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.
- (B) Every access way (curb cut) to a filling station shall be located at least **two hundred (200) feet** from any fire station, school, public library, church, park, or playground.
- (C) All trash receptacles, except minor receptacle adjacent to the gasoline pumps, shall be screened from view.
- (D) All existing filling stations prior to adoption of this Code that do not meet the requirements of **Section 40-4-4**, subsections (A), (B) and (C) will be permitted to operate.

40-4-5 HOME OCCUPATIONS. A home occupation is an occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

- (A) No home occupation in Residential Districts shall be permitted that:
- (1) Requires exterior building alterations to accommodate the occupation;
 - (2) Generates traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood;
 - (3) Creates excessive noise, vibration, glare, fumes, odors, or results in electrical interference or becomes a nuisance;
 - (4) Requires parking for customers that cannot be accommodated on the site and/or not exceeding **one (1)** parking space at curb side of the street;
 - (5) Requires the delivery of goods or the visit of customers before **6:00 A.M.** or after **9:00 P.M.**
- (B) The following are permitted home occupations provided they do not violate any of the provisions of the previous paragraph:
- (1) Dressmaking, sewing or tailoring;
 - (2) Painting, sculpturing or writing;
 - (3) Telephone answering;
 - (4) Home crafts, such as, but not limited to model making, rug weaving, lapidary work, cabinet making, taxidermy and photography; (**Ord. No. 1564; 01-21-08**)
 - (5) Tutoring, limited to **four (4) students** at a time;
 - (6) Home cooking and preserving;
 - (7) Office for after hours work or as a base of operations for service provided outside and away from the home;
 - (8) Laundering and/or ironing;
 - (9) Repair of clocks, instruments and other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors, or results in electrical interference;
 - (10) Barber shops and beauty parlors;
 - (11) Babysitting and/or day care services not required to be licensed by the State of Illinois;
 - (12) Bed and breakfast establishments.
- (C) The following are prohibited as home occupation:
- (1) Dance and exercise studios;
 - (2) Private clubs;

- (3) Repair shops which may create a nuisance due to excessive noise, vibration, glare, fumes, odors or electrical interference;
- (4) Restaurants;
- (5) Stables or kennels and related services;
- (6) Tourist homes;
- (7) Automobile repair or paint shops.

(D) Any proposed home occupation that is neither specifically permitted by paragraph (B) nor specifically prohibited by paragraph (C) shall be considered a Special Use and granted or denied upon consideration of those standards contained in paragraph (A) and under the procedures specified in **Article X**, Special Uses and Amendments.

(E) Home occupation businesses shall be limited to the applicant who legally resides in the residence.

(F) Home occupations requiring a special use permit must have a permit issued by the Zoning Administrator. The permit fee will be **Ten Dollars (\$10.00)**. (**Ord. No. 1735; 10-20-14**)

40-4-6 HOSPITALS, NURSING HOMES.

(A) The lot on which any hospital or sanitarium is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **five (5) acres**.

(B) The lot on which any nursing home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **one and one-half (1.5) acres**.

40-4-7 JUNK YARDS.

A junk yard is defined as an open area of land and any accessory structures thereon that are used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery and equipment not in operable condition, or parts thereof, and metals, glass, paper, plastics, rags and rubber tires. A lot on which **three (3)** or more inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard. Junk yards shall not be allowed within the corporate limits of this Municipality. (**Ord. No. 1564; 01-21-08**)

Junk yard shall not be allowed within the corporate limits of this Municipality. Those junk yards in existence prior to the adoption of this Code shall be "Grandfathered". Such yards may be sold so long as it continues to be a junk yard. If the property ceases to be a junk yard after **one (1) year**, it will be re-zoned the same as the district that adjoins or surrounds it.

(A) All existing junk yards within the City limits of Carlinville prior to the adoption of this Code must be screened by a wall, solid fence, or closely planted shrubbery **eight (8) feet** high and of sufficient density to block the view from adjacent property within **three (3) years** of the adoption of this Code.

40-4-8 SANITARY LANDFILLS.

Sanitary landfills are not permitted within the jurisdictional limits of this Zoning Code.

40-4-9 **SCHOOLS.**

(A) The lot on which any school is situated shall have the minimum area indicated below:

<u>Type of School</u>	<u>Minimum Lot Area</u>
Nursery, Day Care Center	As required by State law for Nursery/Day Care Centers
Other (elementary, junior high, senior high)	As required by State law normally four (4) acres , plus one (1) additional acre for every one hundred fifty (150) students in excess of two hundred (200) .

(B) The principal building of any school shall be located at least **twenty-five (25) feet** from all lot lines.

40-4-10 **PRIVATE SWIMMING POOLS.**

(A) Privately owned artificial basins of water used for swimming or wading (hereinafter "swimming pools") shall be in conformity with the requirements of this Article; provided, however, these requirements shall not be applicable to any such swimming pool less than **twenty-four (24) inches** deep or having a surface area of less than **two hundred fifty (250) square feet**.

(B) No person shall own, possess, build, construct, install, enlarge or alter a swimming pool as defined in **Section 40-4-10(A)** unless there shall be erected and maintained an adequate enclosure, either surrounding the property upon which the swimming pool is located or the pool area itself, sufficient to make such a body of water inaccessible to small children.

(C) All permanent swimming pools, regardless of whether they are constructed in the ground or above the ground, shall be protected by a fenced enclosure with a height of at least **four (4) feet** above the underlying ground level and shall be equipped with a self-latching gate having a latch at least **four and one-half (4.5) feet** over grade. The gate to the fenced enclosure around each swimming pool shall be located with a lock which can be opened only with a key or combination whenever the swimming pool is not in use or is equipped with and controlled by a self-latching device on the inside of the gate and spring closing hinges.

(D) The provisions of **Section 40-4-10** shall apply to any swimming pool as herein defined, built, constructed, installed, enlarged, or altered after the effective date of this Code. Within **three (3) months** of the effective date of this Code existing swimming pools must meet the standards outlined herein.

40-4-11 **UTILITY SUBSTATIONS.** Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, or similar facility shall be deemed a special use, and shall conform to the following regulations:

(A) New facilities shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.

(B) In any residential district, the structure housing any facility shall be designed and constructed to be compatible with the residential character of the area.

(C) Every such facility shall be screened by close-planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property. Furthermore, if the Zoning Administrator determines that the facility poses a safety hazard (for example, if there are exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed behind the planting screen.

40-4-12 (APPROVED) MANUFACTURED HOMES/MODULAR UNITS. A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel or other approved location. Modular housing will be considered conventional housing and shall be constructed on a permanent foundation (see definition for Permanent Foundation). Modular housing as herein defined shall be considered a single-family dwelling. No modular home shall hereafter be brought into this Municipality unless said home conforms to construction/safety standards adopted by the Federal Manufactured Home and Safety Standards. No modular home shall be installed on any lot in this Municipality that is older than **ten (10) years** from the current date.

40-4-13 MOBILE HOMES. The following requirements are supplementary to the Standards in Illinois Mobile Home Safety Act and the Rules and Regulations adopted by the Illinois Department of Public Health pursuant thereto. No mobile home shall hereafter be brought into this Municipality unless said home conforms to construction/safety standards adopted by the Illinois Mobile Home Safety Act. No mobile home shall be installed on any lot in this Municipality that is older than **ten (10) years** from the current date.

40-4-14 MOBILE HOMES – INDIVIDUAL.

(A) After the adoption of this Code mobile homes shall only be located or relocated in the MH Mobile Home Zoning District except as otherwise provided herein.

(B) After the effective date of this Code, existing mobile homes in Residential Districts and/or in any other district other than in the MH Mobile Home Zoning Districts will be permitted as long as they are used as residences and as long as the mobile home owner and the lot owner are one and the same individual or entity. Said mobile homes may be upgraded or replaced. When the mobile home or the lot on which the mobile home formerly was located is vacant and not occupied for a period of **twelve (12) consecutive months** or for a total of **eighteen (18) months** during any **three (3) year** period, the property will be re-zoned the same as the district that surrounds it and any existing mobile home on the property will have to be removed. In the existing situations where the mobile home owner and the lot owner are different, if the mobile home is removed from the lot and the lot remains vacant for a period of **ninety (90) days**, then the owner of the lot shall lose the right to rent the lot to another different mobile home owner.

(C) (1) All mobile homes will be required to be skirted and anchored. Specifically, skirted with fire resistant material to enhance the appearance of the home and to prevent rodent harborage. Skirting shall be equipped with an inspection door at least **twenty-four (24) inches** wide to allow access to the underside of the home; and

- (2) The mobile home shall meet the Manufactured Home Tie Down Code issued by the Illinois Department of Public Health.
- (3) Mobile homes must be located on a mobile home stand extending the full length of the upperside supports of the mobile home. Said stand shall be constructed and located so as to facilitate placement and removal of the mobile home in relation to the abutting roadway. The stand shall sit on a permanent foundation that consists of one of the following: six-inch thick reinforced concrete runners; a four-inch thick reinforced concrete slab; or concrete piers constructed and located so as to facilitate placement and removal of the mobile home in relation to the abutting roadway. The piers shall be constructed of concrete in cylindrical shape not less than **sixteen (16) inches** in diameter and to a depth of not less than **thirty (30) inches** below surface grade and shall be located at no greater than **eight (8) foot** intervals extending the full length of the underside supports of the mobile home.
- (4) Each mobile home shall have installed appropriate tie-down equipment, namely:
 - (a) Frame tie downs **two (2) feet** from each end and a maximum of **twelve (12) feet** spacing on each side of the length of the home.
- (5) Each mobile home shall be rendered immobile by removing the wheels, tongue and hitch and placing the mobile home on a permanent foundation.

(D) All mobile homes shall be connected to all available public utilities in accordance with the requirements for any residential structures in the City, shall be appropriately skirted and shall conform to all requirements that are applicable to conventionally constructed dwelling units.

(E) Mobile homes to be placed and occupied after the effective date of this Code can only be allowed by approved license and occupancy permit.

- (1) Every applicant for a license shall submit to the City Clerk a written application for mobile license. This application shall be accompanied by an inspection fee of **Fifty Dollars (\$50.00)**.
- (2) The license application shall be referred to the Zoning Administrator for review and inspection according to the minimum requirements established by this Article and other applicable ordinances, statutes and regulations. The Zoning Administrator will either approve or deny the application.
- (3) Issuance of the mobile home license by the Zoning Administrator shall authorize the applicant to proceed with installation, placement and location of the mobile home. Occupancy of the dwelling will not be permitted until the issuance of an occupancy permit.
- (4) The holder of a mobile home license must make application for an occupancy permit within **one hundred eighty (180) days**. If no application for an occupancy permit is filed with the Zoning Administrator, the license shall be revoked. Any applicant denied an occupancy permit may reapply for an occupancy permit within **thirty (30) days** of such denial by the Zoning Administrator. If

applicant does not reapply for an occupancy permit within such **thirty (30) days**, then the license issued shall be revoked.

(F) Existing mobile homes in the (MH) District, but not in a mobile home park or court may be replaced provided the replacement mobile home meets the U.S. Department of Housing and Urban Affairs standards. The replacement mobile home shall be no more than **ten (10) years** of age.

40-4-15 MOBILE HOME PARKS AND COURTS.

(A) After the effective date of this Code, no mobile home park and/or court shall be operated within this City without having first obtained a permit to operate from the Illinois Department of Public Health.

(B) Mobile home parks and/or courts shall be permitted in the MH District and shall meet the following requirements.

- (1) Shall be located on a tract of land not less than **two (2) acres**.
- (2) Shall contain at least **three (3) mobile homes**.
- (3) **Minimum Lot Size and Setback Requirements.** Individual mobile home spaces shall be considered as lots and shall meet the following requirements:
 - (a) Minimum lot size 4,000 square feet
 - (b) Minimum lot depth 100 feet
 - (c) Minimum lot width 40 feet
 - (d) Minimum setback requirements
 - from front lot line 20 feet
 - from rear lot line 10 feet
 - from side lot line 8 feet
- (4) Shall be skirted and anchored as per **Section 40-4-13(C)**.
- (5) **Two (2)** off-street parking spaces shall be provided per mobile home.
- (6) No access way may dead-end except as a cul-de-sac with appropriate turn-around space for emergency vehicles.

40-4-16 KENNELS. A 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.

(A) The lot on which any kennel is situated shall have a minimum area of **two (2) acres**.

(B) Every kennel shall be located at least **one hundred (100) feet** from the front, rear and side lot lines of the entire parcel of property on which the kennel is located.

40-4-17 AGRICULTURAL ACTIVITIES.

(A) **Farm Animals.** The rearing, breeding or housing of horses, cattle, swine, poultry, or other farm animals shall not be allowed within the corporate limits of this Municipality except on land located in an existing Agricultural District.

40-4-18 **RENTAL STORAGE UNITS.** Must be permanently attached to the premises and sit on a permanent foundation. No single units, separate or attached, will be allowed. **(Ord. No. 1564; 01-21-08)**

40-4-19 **LAKES, PONDS AND DAMS.** Lakes and ponds shall be in compliance with this Section. Lakes and ponds, which shall be considered synonymous, are defined as any inland body of water with a water surface area of **five hundred (500) square feet** or more and a depth of no less than **three and one-half (3.5) feet** at its deepest point below the surface of the water. A swimming pool, which is an artificial basin of water used for swimming and wading, shall not be considered as a lake or pond for purposes of this Section. Lakes and ponds shall be in compliance with the following requirements:

(A) Lakes or ponds shall only be permitted on real property that is **five (5)** or more contiguous acres in size.

(B) No part of a lake or pond shall be closer than **thirty (30) feet** to a property boundary line, and no part of a lake or pond shall be closer than **one hundred fifty (150) feet** to an existing residence on an adjoining parcel of real property.

(C) No part of a lake or pond shall be closer than **one hundred fifty (150) feet** to any public road, public highway, public right-of-way, utility easement or other easement. If the width or location of a public road or highway cannot be determined, **thirty (30) feet** shall be added to the **one hundred fifty (150) feet** setback line and shall be measured from the centerline of said road or highway.

(D) Lakes or ponds shall have spillways constructed which allow the overflow to follow the natural drainage course and shall be constructed so as to prevent soil erosion at the outflow of any dam.

(E) Lakes, ponds and dams for them shall be constructed, operated, repaired and maintained in compliance with all federal and state laws, rules and regulations and shall have all the licenses and permits required by such laws, rules and regulations.

(F) Lakes and ponds which have more than **one (1) square mile** of drainage from upstream, or which contain more than **thirty (30) acres** of surface of water, shall have a plan prepared, approved and stamped by a licensed Illinois engineer or licensed Illinois surveyor, in addition to any other requirements contained herein.

(G) Lakes and ponds, which have a depth greater than **twenty (20) feet** measured from the crest of the emergency spillway to the flowline of the original ground, shall have a plan prepared, approved and stamped by a licensed Illinois engineer or a licensed Illinois surveyor.

(H) No construction of lakes, ponds or dams for them shall be commenced until the City has issued a temporary certificate of zoning compliance for the same. No lakes, ponds or dams for them; for which a temporary certificate of zoning compliance has been issued by the City, shall be operated or maintained unless a permanent certificate of zoning compliance has been issued for them. The issuance of such certificate does not relieve any applicant from complying with any federal and state laws, rules and regulations and getting all the necessary licenses and permits required by them.

(Ord. No. 1667; 06-04-12)

**ARTICLE V - SUPPLEMENTARY OFF-STREET PARKING
AND LOADING REGULATIONS**

40-5-1 **APPLICABILITY OF ARTICLE.** Off-street parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

40-5-2 **EXISTING PARKING/LOADING FACILITIES.**

(A) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced below, or if already less than, shall not be further reduced below the requirements and standards for similar new structures or uses.

(B) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, additional off-street parking and loading facilities need not be provided, but parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored.

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, gross floor area, seating capacity, etc., additional parking and loading facilities commensurate with such increase in use-intensity shall be provided.

(D) Whenever the existing use of a structure is changed to a different use, parking or loading facilities shall be provided as required herein for such new use.

40-5-3 **PARKING DESIGN AND MAINTENANCE STANDARDS.**

(A) **Spaces.**

(1) Each required parking space shall be at least **nine (9) feet** wide and **nineteen (19) feet** long, and shall have at least **seven (7) feet** of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way.

(2) For multi-family, business and industrial uses, markings shall be laid and restored as often as necessary to clearly delineate each parking space.

(B) **Interior Aisles.** Aisles within parking lots in Business and Industrial Districts shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles and into and out of parking spaces. Aisles designed for two-way traffic shall be at least **twenty-two (22) feet** wide. One-way aisles designed for **sixty (60) degree** parking shall be at least **eighteen (18) feet** wide.

(C) **Access Way.**

(1) Parking areas in the Business and Industrial Districts shall be designed so that ingress to and egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.

(2) No access way to any parking area shall be located within **thirty (30) feet** of any corner formed by the intersection of the rights-of-way of **two (2)** or more streets. At intersections where traffic control devices are installed, the Zoning Administrator, after consulting with the Chief of Police, may increase this requirement as necessary to prevent traffic hazards.

- (3) The access way to every parking lot located in any business and industrial zoning district shall be at least **twenty-four (24) feet** wide unless **two (2)** one-way drives, each **twelve (12) feet** wide, are provided.
- (4) The access way to every parking area located in any residential zoning district shall be at least **ten (10) feet** wide; but if the parking area contains more than **eight (8) parking spaces** or if the access way is longer than **one hundred (100) feet**, access shall be provided either by **one (1)** two-way drive at least **twenty (20) feet** wide or by **two (2)** one-way drives, each at least **ten (10) feet** wide.

(D) **Lighting.** Any light(s) used to illuminate any parking area shall be arranged or shielded so as to confine direct light rays within the parking area boundary lines to the greatest extent practicable.

40-5-4 LOCATION OF PARKING. All off-street parking shall be located in conformity with the following requirements:

(A) Parking spaces accessory to dwellings located in any residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.

(B) All parking spaces accessory to permitted non-dwelling uses located in the residential zoning district generally shall be located on the same lot as the use served. However, by special use permit, such parking facilities may be located on another parcel within **two hundred (200) feet** of the use served. No commercial vehicle exceeding **one (1) ton** cargo capacity or exceeding **twenty (20) feet** in length shall be parked anywhere in a residential district (except for normal loading, unloading and service call), unless a special use permit has been obtained. No vehicle repair work shall be permitted on any parking lot located in any residential district.

40-5-5 BUSINESS AND INDUSTRIAL DISTRICTS.

(A) Parking spaces accessory to any dwelling located in any business district shall be located within **two hundred (200) feet** of the dwelling. Parking spaces accessory to any other conforming use located in any business or industrial district shall be located within **five hundred (500) feet** of the use served.

(B) No parking space accessory to any use located in business or industrial district shall be located in any residential district except by special use permit; and in no case shall any such parking areas extend more than **five hundred (500) feet** into a residential district.

(C) In any business or industrial district, off-street parking facilities for different buildings or uses may be provided collectively if the total number of spaces so located together is not less than the sum of the separate requirements for each use, and if all regulations governing location of parking spaces in relation to the use served are observed.

40-5-6 PARKING SURFACES. All parking areas and parking lots servicing or being used by commercial businesses shall be graded and improved with a surface approved by

the Zoning Administrator. The surface shall be sufficient for the intended use. The surfaces C-1 and C-2 shall be paved properly for the expected use of such lot. Any decision by the Zoning Administrator may be appealed to the Planning Commission and they shall have the final decision.

40-5-7 **DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES.** All off-street loading facilities shall conform to the minimum standards as indicated:

(A) **Size Of Space.** Every required off-street loading space shall be at least **twelve (12) feet** wide and **forty-five (45) feet** long exclusive of aisle and maneuver space, and shall have vertical clearance of at least **fourteen (14) feet**. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

(B) **Access Way.** Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least **twelve (12) feet** wide.

(C) **Location.** Every off-street loading space, whether required or not, shall be located on the same parcel of land as the use served, and not closer than **fifty (50) feet** to the intersection of the rights-of-way of **two (2)** or more streets, and not on required front yards.

ARTICLE VI - NONCONFORMITIES

40-6-1 **PURPOSE OF ARTICLE.** The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various residential, business and industrial districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaxing of parking facilities, the emission of noxious fumes or excessive noise, and/or the lowering of property values. **The regulations in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.**

40-6-2 **NONCONFORMING LOTS.** Any vacant lot that does not conform to **one (1)** or more of the lot size requirements of the district in which it is located may be used in the manner indicated at **Sections 40-6-3** and **40-6-4** if it:

(A) Is of record on the date of the adoption or amendment of this Code; and
(B) Has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by the applicable zoning code or other ordinances.

40-6-3 **RESIDENTIAL.** On any such lot located in any district any permitted structures may be erected, provided all the bulk (see definitions) and setback regulations of the particular district are observed.

40-6-4 **OTHER DISTRICTS.** On any such lot located in the business or industrial districts any structure permitted in the particular district may be erected if the bulk and setback requirements of that district are met.

40-6-5 **NONCONFORMING STRUCTURES.** Any lawful structure which exists on the effective date of the enactment or amendment of this Code, but which could not be erected under the terms of this Code because of restrictions on the lot size, height, setbacks, lot coverage, or other characteristics of the structure, or its location on the lot, may lawfully remain, be repaired and/or be rebuilt or replaced as long as it does not violate the requirements of this Code to a greater extent than it does at the time of the passage of this Code, provided that the maintaining and/or replacement of mobile homes shall be governed by **Section 40-4-13** and **40-4-14** of this Code.

40-6-6 **NONCONFORMING USES OCCUPYING A STRUCTURE.** If any lawful use occupying a structure exists on the date of the enactment or amendment of this Code, but would not be allowed under the terms of this Code, such a use may lawfully continue, subject to the following provisions:

(A) **Maintenance and Rebuilding.** Any structure housing a nonconforming use may be maintained through ordinary repairs and/or may be replaced or rebuilt as long as the nonconforming use is authorized herein. Said repairs or replacements should be completed within **twelve (12) months** of authorization of destruction or improvement.

(B) **Change of Use.** A nonconforming use occupying a structure shall not be changed except to a use permitted under the applicable district regulations.

(C) **Discontinuance of Use.** When a nonconforming use of a structure, or of a structure and premises in combination, is voluntarily discontinued for **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

40-6-7 NONCONFORMING USE OF LAND. Any lawful use of land existing on the date of the adoption or amendment of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

(A) **Relocation.** No nonconforming use of land shall be moved, in whole or in part, unless upon relocation such use will conform to all pertinent regulations of the district in which it will be located.

(B) **Change of Use.** A nonconforming use of land shall not be changed except to a use that is permitted under the applicable district regulations.

(C) **Discontinuance.** When a nonconforming use of land is voluntarily discontinued for a period of **twelve (12)** consecutive months, it shall not thereafter be resumed, and any subsequent use of such land shall conform to the applicable district regulations. Any voluntary discontinuance caused by government action and without any contributing fault by the owner or operator shall not be counted in calculating the length of discontinuance.

40-6-8 NONCONFORMITIES UNDER PERMIT AUTHORITY. The regulations of this Article shall not apply to any change in an existing structure or to any change in the use of a structure or of land for which a permit was issued prior to the enactment of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is carried out and completed with diligence.

ARTICLE VII - SIGN CODE

40-7-1 **SIGN PERMIT REQUIRED; FEE.** Except as otherwise provided in the following sections, no outdoor advertising sign, billboard or structure shall be erected, constructed, altered, rebuilt, or relocated except as provided in this Code and until a permit for the sign has been issued by the City upon application therefore submitted in the form the City may prescribe so as to include any information as may be required by it for a complete understanding of the proposed work. This application shall be accompanied by a fee according to the permit fee schedule included in **Section 40-9-5**.

40-7-2 **EXEMPTIONS.** No person will be required under this Code for the following signs:

(A) A wall or window sign not exceeding **six (6) square feet** of display surface.

(B) A sign not exceeding **three (3) square feet** of display surface on a residence building stating merely the name and profession of an occupant.

(C) A ground sign advertising either the sale or rental of the premises upon which it is maintained when the sign does not exceed **twenty-five (25) square feet** of display surface.

(D) Street, warning, and other official or non-advertising signs erected by any government or by others where required by or pursuant to legal authority.

(E) The exemptions permitted by this Section shall apply only to the requirement of a permit and shall not be construed as relieving the owner of the sign from responsibility for its erection and maintenance in a good and safe condition.

40-7-3 **EXAMINATION OF PLANS; ISSUANCE.** The Zoning Administrator, upon the filing of an application for a Temporary Certificate of Zoning Compliance as required by **Section 40-9-4**, shall examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure. Applicant must provide additional information on any sign at the request of the Zoning Administrator to show wind loads, calculations, etc.

40-7-4 **WHEN PERMIT BECOMES NULL AND VOID.** If the work authorized under a Temporary Certificate of Zoning Compliance as required by **Section 40-9-4** has not been completed within **six (6) months** after the date of issuance, the permit shall become null and void.

40-7-5 **PAINTING REQUIREMENTS GENERALLY.** The owner of any sign as defined and regulated by this Code shall be required to have the sign properly painted, at least once every **two (2) years**, including all parts and supports of the sign, unless the parts and supports are galvanized or otherwise treated to prevent rust.

40-7-6 PERMIT NUMBER, DATE OF ERECTION, AND VOLTAGE TO BE PAINTED ON SIGNS. Every sign or other advertising structure, when erected, shall have painted in a conspicuous place thereon, in letters not less than **one (1) inch** in height, the date of erection, the permit number, and the voltage of any electrical apparatus used in connection therewith.

40-7-7 REMOVAL OF CERTAIN SIGNS. Any sign which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which the sign may be found, within **ten (10) days** after written notification from the City, and upon failure to comply with the notice within the time specified in the order, the City is hereby authorized to cause removal of the sign, and any expense incident thereto shall be paid by the owner of the building or structure to which the sign is attached.

40-7-8 UNSAFE AND UNLAWFUL SIGNS. If the City shall find that any sign or other advertising structure regulated by this Code is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this Code, he shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards set forth in this Code within **ten (10) days** after the notice, the sign or other advertising structure may be removed or altered to comply with this Code by the City at the expense of the permittee or owner of the property upon which it is located. The City shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The City may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

40-7-9 NOT TO OBSTRUCT FIRE ESCAPES. No outdoor advertising sign shall be erected, constructed, or maintained so as to obstruct any fire escape, or any window or door or opening used as a means of egress or for fire-fighting purposes, or so as to prevent free passage from one part of a roof to another part thereof. No sign shall be attached in any form, shape, or manner to a fire escape nor be so placed as to interfere with an opening required for legal ventilation.

40-7-10 TO BE MARKED WITH ERECTOR'S NAME. Every outdoor advertising sign erected under the provisions of this Code shall be plainly marked with the name of the person erecting the sign.

40-7-11 LOADS AND ALLOWABLE STRESSES.
(A) Ground signs shall be designed and constructed to withstand wind pressure of not less than **twenty-five (25) pounds** per square foot of exposed area, but all other signs must be designed and constructed to withstand wind pressure of not less than **fifty (50) pounds** per square foot of exposed area.
(B) Allowable stresses and materials shall conform to the latest approved specifications of the American Standard Building Code Requirements for Structural Steel, approved by the American Standards Association, and the National Design Specification for Stress Grade

Lumber and its Fastenings, recommended by the National Lumber Manufacturers Association. The working stress of chains, wire ropes, and steel guy rods and their fastenings shall not exceed **one-fourth (1/4)** of their ultimate strength.

40-7-12 **GROUND SIGNS.**

(A) No ground sign for which a permit is required shall be erected to a height of more than **twelve (12) feet** above the ground unless the face is constructed of sheet metal or other noncombustible facing materials.

(B) The bottom of the facing of every ground sign shall be at least **thirty (30) inches** above the ground, which space may be filled with platform or decorative trim of light wood or metal construction.

(C) Ground signs shall be adequately supported to resist dead load and the wind load specified in **Section 40-7-11** acting in any direction on the sign.

(D) Ground signs which do not exceed **twenty-five (25) feet** in height may have supports which consist only of vertical posts driven into or set in the soil, or which consist only of vertical posts rigidly attached to bases embedded in the soil. There shall be **two (2)** or more vertical posts spaced not to exceed a distance equal to **one-half (1/2)** the height of the sign above the ground, except that a sign which does not exceed **fifty (50) square feet** in any area may be supported by a single post.

(E) The posts, or bases for rigidly attached posts, supporting unbraced ground signs shall be so proportioned that the bearing loads imposed upon the soil in either a horizontal or vertical direction shall not exceed safe values. Braced ground signs shall be anchored to resist the specified wind load acting in any direction. Anchors and support shall be designed for safe bearing loads on the soil and for an effective resistance to pull out amounting to a force **twenty-five percent (25%)** greater than the required resistance to overturning.

(F) The soil used for backfill for the dug-in type of anchor or post support shall be carefully placed and thoroughly compacted. The anchors and supports shall penetrate to a depth below ground greater than that of the frost line.

(G) Portable signs supported by frames or posts rigidly attached to bases shall be so proportioned that the weight and size of the base is adequate to resist the wind pressure specified in **Section 40-7-11**. The sign shall not exceed **six (6) feet** in height.

(H) Whenever anchors or supports consist of wood embedded in the soil, the wood shall be treated under pressure with creosote or other approved preservation before erection. This requirement shall not apply to temporary signs which will not remain in place for more than **six (6) months**.

(I) The owner of a lot upon which there is a ground sign or the person occupying the lot or both are hereby required to keep the lot and the ground sign clean, sanitary, inoffensive and free and clear of all obnoxious substances and unsightly conditions.

40-7-13 **ROOF SIGNS.**

(A) Every roof sign shall be constructed entirely of fire-resistive materials, including the uprights, supports, and braces, except that the ornamental molding, battens, cappings, and nailing strips, platforms, and the decorative trimmings may be constructed of combustible materials.

(B) No roof sign shall project beyond the exterior wall, but if illuminated, lighting reflectors may project beyond the face of the wall.

(C) Roof signs shall be so constructed as to leave a clear space, except for the structure supporting the sign, of not less than **four (4) feet** between the roof and the lowest part of the sign.

(D) Roof signs shall be thoroughly secured and anchored to the building over which they are constructed and erected. The dead and wind loads from the signs shall be distributed to the structural elements of the building in a manner that no element shall be overstressed.

(E) Uplift due to overturning of roof signs shall be adequately resisted by proper anchorage to the building walls or structure, or by sufficient concrete counterweights to resist uplift. Proper anchorage to the building walls or structure shall include alterations to the building as may be needed to integrate and adequately interconnect sufficient dead load to equal not less than **ten percent (10%)** in excess of the computed uplift applied to the building by the sign. Where uplift is resisted by counterweights, their weight shall exceed the amount of the uplift by **ten percent (10%)**.

40-7-14 WALL SIGNS. Wall signs attached to exterior walls of solid masonry or concrete shall be safely and securely attached to the walls by means of metal anchors, bolts, or expansion screws of not less than **three-eighths (3/8) inch** in diameter which shall be embedded at least **five (5) inches**. No wooden blocks or anchorage with wood used in connection with screws or nails shall be considered proper anchorage, except in the case of wall signs attached to buildings with walls of wood. No wall sign shall be entirely supported by an unbraced parapet wall. Painted advertising shall be considered a wall sign and shall require a permit.

40-7-15 PROJECTING SIGNS.

(A) Signs shall in no case project from a building or structure to any point within **two (2) feet** of a line drawn perpendicularly upward from the curb line. No projecting sign shall at the lowest point be less than **nine (9) feet** above the sidewalk or the ground level. All projecting signs for which a permit is required shall be constructed entirely of fire-resistant materials approved by the City for this purpose.

(B) Projecting signs shall be securely attached to a building or structure by metal bolts, anchors, supports, chains, wire ropes, or steel rods. No staples or nails shall be used to secure any projecting sign to any building or structure.

(C) The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported by structural shapes, chains, wire ropes, or steel guy rods. These supports shall be erected and maintained preferably at an angle of **forty-five (45) degrees** or more with the face of the sign in an approximately horizontal plane to resist wind pressure. The lateral supports shall be spaced not more than **eight (8) feet** apart and shall be secured to a bolt or expansion screw capable of developing the strength of the supporting chain, wire, rope or steel guy rod. The expansive device and details of the anchorage shall be subject to the approval of the City. Turn buckles or other approved means of adjustment shall be placed in all chains, wire ropes, or steel guy rods supporting or bracing projecting signs.

(D) Chains, wire ropes, or steel guy rods used to support the dead or wind load of projecting signs may be fastened to solid masonry walls with expansion bolts or other devices approved by the City, but no support shall be attached to an unbraced parapet wall. Where the supports must be fastened to walls made of wood, the supporting device must be fastened securely in a manner approved by the City.

(E) All metal supports and braces for projecting signs shall be galvanized or of corrosive-resistant material or painted at least once annually.

40-7-16 **MARQUEE SIGNS.** Fire-resistant marquee signs may be attached to or hung from a marquee. When attached to or hung from a marquee, the sign shall be at least **nine (9) feet** at its lowest level above the sidewalk or ground level. No sign shall extend outside the vertical lines of the marquee. All marquee signs shall have a 14 watt per bulb limit.

40-7-17 **ALLOWABLE SIZES AND LOCATIONS.** Signs requiring a permit per **Section 40-7-1** shall only be erected in the following approved Districts and be subject to the following size restrictions.

(A) Maximum **twelve (12) square feet** per side in the Single Family Residential Districts, S-1 and S-2.

(B) Maximum **thirty-two (32) square feet** per side in the Neighborhood Commercial District, C-1.

(C) Maximum **one hundred (100) square feet** per side in the General Commercial and Industrial Districts, C-2 and I.

ARTICLE VIII – ADULT BUSINESS

DEFINITIONS. See Section 40-2-2.

40-8-1 SPECIAL USE PERMIT REQUIRED.

(A) No adult business may operate within the City without first having obtained a special use permit. A separate special use permit must be acquired for each adult business. Adult businesses include but are not limited to adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, adults-only massage parlors, rap parlors, or adults-only saunas. It shall likewise be unlawful for any such business to sell or offer for sale any adults-only items in violation of the terms and conditions of such special use permits.

(B) A special use permit issued by the City is required for and with respect to any building location and premises, within the City, at or upon which an adult business is to be operated.

(C) All special use permit procedures and criteria are as noted in the City Zoning Code.

(D) No special use permit shall be held in existence by the mere payment of fees.

40-8-2 LOCATION RESTRICTIONS.

(A) The use of property for an adult business can have potentially harmful secondary effects on the surrounding areas, and may have a deleterious effect upon the use and enjoyment of adjoining properties.

(B) Such secondary effects can include, but not be limited to, a tendency to attract an undesirable quantity and quality of transients, to affect property values adversely, to cause an increase in crime, especially prostitution, to contribute to the blighting or down-grading of the surrounding neighborhood/area, and to encourage residents and businesses to move elsewhere.

(C) As such, all adult businesses must comply with the following location restrictions:

- (1) All adult businesses shall be located within C-2 and I Districts.
- (2) No adult business shall be located within **one thousand (1,000) feet** (excluding streets, alleys and public ways) of another adult business. Said distance shall be measured from property line to property line.
- (3) No adult business shall be located within **two hundred fifty (250) feet** of any residential zone, single- or multiple-family dwelling, church, school, licensed day care facility, or park. Said distance shall be measured from the building or structure itself within which the business is located.

40-8-3 PROHIBITED CONDUCT. The operator of any adult business shall neither participate in nor suffer or permit any of the following prohibited acts to occur on the premises:

(A) Sexual conduct, including but not limited to any demonstration, dance, performance, or exhibition on the licensed premises by any employee, agent, entertainer, or patron, where said person engages in any of the following conduct:

- (1) Exposure of the genitals, pubic hair, perineum, anal or pubic region; or
- (2) Exposure of any device, costume or covering which gives the appearance of or simulates the genitalia, pubic hair, buttocks, perineum, anal or pubic region; or
- (3) Performance or simulated performance of ultimate sexual acts or explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise) bestiality or sadomasochistic activity; or
- (4) Fondling of his or her own genitals or the genitalia of another person.

(B) Employment or use of the services of any person in or upon the premises of the adult business while such person is unclothed or in such attire, costume or clothing so as to result in conduct prohibited in subsection (A) above.

(C) Admission of any underage patron into or upon the premises of the adult business.

(D) Patronage, frequenting or loitering of any underage person in any adult business.

(E) Allowance of any underage person to view, accept or otherwise possess any adults-only item on the licensed premises.

(F) Employment or use of the services of any underage person in or upon the premises of the adult business.

(G) Drunkenness, fighting, unlawful games, riotous or disorderly conduct whatsoever, in any premises kept or occupied as an adult business.

(H) Allowing or permitting the sale, distribution, delivery, or consumption of any controlled substance or illegal drug or narcotic on the premises.

40-8-4 SALES PRACTICE VIOLATIONS.

(A) No operator, agent, or employee shall knowingly sell, deliver or provide, offer or agree to sell, deliver or provide any obscene writing, picture, record, or other representation or embodiment of the obscene. **(720 ILCS 5/11-20)**

(B) No operator, agent, or employee shall sell, deliver or provide, offer or agree to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene after recklessly failing to exercise reasonable inspection, which would have disclosed the nature or content thereof. **(720 ILCS 5/22-20)**

(C) No operator, agent, or employee shall create, buy, procure, or possess obscene matter or material with intent to disseminate it in violation of this Article or State statute. **(720 ILCS 5/22-20)**

(D) No operator, agent, or employee shall advertise or otherwise promote the sale of materials represented or held out by him to be obscene, whether or not it is obscene. **(720 ILCS 5/22-20)**

(E) No operator, agent, or employee shall knowingly sell, deliver, provide, or offer to sell, deliver, or provide any child pornography as defined by State statute. **(720 ILCS 5/22-20)**

(F) No operator, agent, or employee shall create, buy, procure, or possess any child pornography with intent to disseminate it in violation of this Article or State statute. **(720 ILCS 5/22-20)**

(G) No operator, agent, or employee shall advertise or otherwise promote the sale of material represented or held out by him to be child pornography, whether or not it is child pornography. **(720 ILCS 5/22-20)**

(H) If an operator, agent, or employee believes or has reason to believe that a sale, delivery, or viewing of any adults-only item is prohibited because the prospective recipient is underage, said operator, agent, or employee shall, (before making or allowing such sale, gift, delivery, or viewing), demand presentation of some form of positive identification containing proof of age, issued by a public officer in the performance of his official duties.

(I) An operator, agent, or employee may refuse to sell, deliver, or allow any person to view any adults-only item, where said persons is unable to produce adequate written evidence of identity and age by production of a document issued by the Federal, State, or County government, or subdivision or agent thereof, including, but not limited to, the following documents:

- (1) A motor vehicle operator's license;
- (2) A registration certificate issued under the Federal Selective Act; or
- (3) An identification card issued to a member of the armed forces.

(J) Proof that the operator, employee, or agent demanded, examined, and reasonably relied upon such written evidence listed in subsection (I) above in any transaction forbidden by this Article is competent evidence that may be offered as an affirmative defense to a violation of this Article.

In order to reasonably rely upon written evidence regarding a patron's identity and age, an operator, agent, or employee shall use the prudent judgment of a reasonable and informed person, and shall scrutinize said written evidence of age and identity by doing the following:

- (1) Determine if the physical description and photograph (if any) on the document presented matches that of the presenting person;
- (2) Determine whether the plastic seal on the identification card is intact or broken; and
- (3) In the case of an Illinois driver's license, determine whether the seventh and eighth digits in the driver's license number (excluding the beginning initial) match the stated date of birth located elsewhere on the driver's license.

If from the foregoing a reasonable person would or should doubt the authenticity of the identification card, then the person offering the identification must not be sold, delivered, or allowed to view any adults-only items.

(K) No operator, agent, or employee shall give away or otherwise make available any adults-only item or viewing of any adults-only item for the purpose of evading any provision of this Article when the sale or viewing of said adults-only item is prohibited shall constitute unlawful selling.

(L) Offers or agreements to sell, deliver, provide, or allow the viewing of any adult-only item at or within any premises when the sale or viewing of said adults-only item is prohibited shall constitute unlawful selling.

(M) The use of any other shift or device to evade any provision of this Article is prohibited and shall constitute unlawful selling.

40-8-5 HOURS OF OPERATION. The unlimited operation of an adult business can, by reason of its intended use, facilitate secondary effects including, but limited to: prostitution, disorderly conduct, performance of sexual acts or conduct in public, traffic congestion, and parking problems. Insofar as the City has a substantial government interest in preserving character and preventing deterioration of its neighborhoods, the following limitations on operation times have been propounded:

(A) Live adult entertainment (performances) shall only allowed during the hours of **9:00 P.M.** to **2:00 A.M.** the following day. No operator, employee, or agent of an adult business shall allow any type of "live adult entertainment" during any other times. The time referred to be either Central Standard Time or Central Daylight Savings Time, whichever is in effect at the time in the City of Carlinville, Illinois.

40-8-6 SIGNS AND/OR EXTERIOR DISPLAY. The unregulated use of signs can result in secondary effects that create dangers to the public in periods of high winds or inclement weather, defeat the sign's informational or advertising functions as competitors escalate sign size and expense to attract patrons, reduce the ability of the public to interpret the intended message safely and quickly, and to destroy the aesthetic quality of the community. Insofar as the City has a substantial government interest in these matters, all signs advertising or promoting the sale of adults-only items must meet the following restrictions:

(A) All signs must be flat wall signs.

(B) The amount of allowable sign area shall be stated in the Sign Regulations

Section 40-7-17.

(C) No merchandise or depictions of adults-only items shall be displayed in window areas or any other area that may be viewed from a public street, alley, public way, or sidewalk located in front of the building.

(D) A **one (1) square foot** sign may be placed on the door to state the hours of the operation and adults-only admittance.

(E) All provisions of the Sign Regulations section of the City's Zoning Code shall control, except as clearly contradicted by this Section. In the event that the provisions conflict, this Section shall prevail.

No adult entertainment establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas from any sidewalks, public or private right-of-way or any property other than the lot on which the licensed premises is located. No portion of the exterior of an adult entertainment establishment shall utilize or contain any flashing lights, search lights or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed in this Article. This Section shall apply to any advertisement, display, promotional material, decoration or sign to any performance or show, and to any window, door, or other opening.

40-8-7 PUBLIC HEALTH STANDARDS.

(A) All premises operated as an adult business shall be kept in clean and sanitary condition and shall be kept in full compliance with regulations issued by the County Health Department or the Illinois Department of Public Health.

(B) Any adult business shall keep and maintain the premises equipped with running hot and cold water, shall provide separate and adequate toilet facilities for both males and females if they are open to the public, and shall comply with all health, sanitary, zoning, and inspection requirements of the Macoupin County Health Code and the State of Illinois.

40-8-8 VICARIOUS LIABILITY.

(A) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Article, by any employee or agent of any operator, shall be deemed and held to be the act of said operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator.

(B) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Article, by any employee or agent of any operator, shall be deemed and held to be the act of said operator if such act or omission occurs as a result of the operator's negligent failure to supervise the conduct of the employee or agent.

(C) Such an offense shall be punishable in the same manner as if said act or omission had been done or omitted by the operator personally.

40-8-9 PENALTY.

(A) In the event that an operator, agent or employee of an adult business is guilty of violating any provision of this Division, said person may be subject to a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)** per violation.

(B) Any person violating the provisions of this Division shall be subject to an offense for each and every day on which such violation continues, and each day that the offense continues shall be regarded as constituting a separate offense.

(C) Any prosecution for violation of this Division does not prohibit the City from pursuing injunctive relief or the State's Attorney's Office from pursuing criminal charges.

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

40-9-1 **ZONING ADMINISTRATOR.** The office of Zoning Administrator of this Municipality, whether it be part-time or full-time, is hereby established. The Zoning Administrator shall be the executive head of this office.

40-9-2 **DUTIES.** The Zoning Administrator is hereby authorized and directed to diligently administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

(A) To review applications pertaining to land, structures, and the use of land and/or structures;

(B) To issue or deny temporary and permanent certificates of zoning compliance;

(C) To supervise inspections of land, structures, and the uses of land and/or structures to determine compliance with this Code, and where there are violations, to initiate appropriate action to secure compliance;

(D) To receive, file, and forward to the Planning Commission all applications for variances and appeals;

(E) To receive and file all applications for amendments and special use permits;

(F) To maintain up-to-date records of this Code including, but not limited to, district maps, certificates of zoning compliance, special-use permits, variances, interpretative decisions of the Planning Commission, amendments, and all applications related to any of these matters;

(G) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the City Council at least once each year;

(H) To cause copies of this Code (including the district map) and any amendments thereto to be printed from time to time, as necessary; and

(I) To provide information to the general public on topics related to this Code.

(J) To receive information from the police regarding potential Zoning violations, and to act on such information to secure the necessary permits. **(Ord. No. 1564; 01-21-08)**
(Ord. No. 1645; 09-06-11)

40-9-3 **TEMPORARY CERTIFICATES OF ZONING COMPLIANCE.** After the effective date of this Code, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until a temporary certificate of zoning compliance has been issued. The Zoning Administrator shall issue no temporary certificate of zoning compliance unless he determines that, when the (proposed) work is completed, the use and/or structure will conform to the applicable provisions of this Code. In addition to the construction of those uses listed in **Schedule 40-3-19**, the following projects require the acquisition of temporary certificate of zoning compliance. This list includes, but is not limited to: new construction; structure alterations; mobile home and modular home installation; sign installation; fence installation; deck, patio, porch and stoop construction; garage and carport construction; siding installation; playhouse construction; kennel and stable construction; roof construction; shed and storage unit

construction; pool installation; and vending machine installation. All applicable state codes and regulations will be followed in the construction of all permitted projects. Once the applicable Temporary Certificate of Zoning Compliance permit has been issued, the permit must be prominently displayed as directed by the City in the front yard, **ten (10) feet** from the property line, on the provided board or in a front-facing window, visible from the street. A fee will be assessed if the permit is not properly posted and then returned to the Zoning office when the project is complete. **(Ord. No. 1586; 03-16-09)**

40-9-4 INFORMATION REQUIRED. Every applicant for a **Temporary Certificate of Zoning Compliance** shall submit to the Zoning Administrator, in narrative or graphic form, all of the following items of information as required by the Zoning Administrator.

[NOTE: As used below, the term "proposed" refers to "altered," "enlarged," or "extended" as well as "completely new".]

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operations, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structures, and its relationship to existing adjacent uses or structures;
- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height, setbacks, and lot coverage of the proposed structures;
- (I) Number and size of proposed dwelling units, if any;
- (J) Location and number of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing and proposed utilities whether public or private; and/or
- (L) Location and square footage of existing and proposed signs by type and class.

40-9-5 FEE, DURATION OF CERTIFICATE. Every applicant for a **Temporary Certificate of Zoning Compliance** shall pay a filing fee in accordance with the permit fee schedule below. **Temporary Certificates of Zoning Compliance** shall be valid for **one (1) year**. The Zoning Administrator may renew such temporary certificates for successive **one (1) year** periods upon request in writing for an additional fee per the permit fee schedule.

PERMIT FEE SCHEDULE

<u>Type of Permit</u>	<u>Cost</u>
Fence/Window or Door Size Alterations/Roof	\$20.00
Porch/Deck/Patio/Shed/Playhouse (max 150 sq. ft.)	\$30.00
Garage/Carport	\$50.00
Lake or Pond	\$50.00 (Ord. No. 1667)

Residential New Construction	\$100.00
Residential Addition	\$50.00
Neighborhood Commercial New Construction	\$150.00
Neighborhood Commercial Addition	\$75.00
General Commercial New Construction	\$250.00
General Commercial Addition	\$125.00
Mobile Homes and Mobile Home Parks	\$50.00 each
Pools-Permanent with Fence	\$50.00
Public Hearing	\$50.00 plus cost of publication
Signs	\$10.00 per face for 16 sf or under \$25.00 per face for 17 to 99 sf \$100.00 per face for over 99 sf
Special Use Permit	\$50.00 plus cost of publication
Variance (if denied)	Refund of permit fee minus \$20.00
Vending Machine	\$25.00 annual
Reapply For Projects +1 yr (construction started)	\$20.00 minimum or half original fee
Reapply For Projects +1 yr (no construction started)	Same fee as original application
Fee for not posting permit or not returning permit and board after project is complete	\$20.00
Failure to obtain necessary permit before beginning project	4 (four) times Permit Fee for project
(Ord. No. 1473; 08-04-08)	
Handicap Ramp for medically qualified person	\$0.00 (no fee)
(Ord. No. 1611; 07-19-10)	

40-9-6 PERMANENT CERTIFICATES OF ZONING COMPLIANCE. No lot or structure or part thereof that has been created, developed, erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used or occupied until a **Permanent Certificate of Zoning Compliance** has been issued. The Zoning Administrator shall issue no **Permanent Certificate of Zoning Compliance** unless he determines, by inspection, that:

(A) The development or construction of such lot or structure has been completed in accordance with plans approved at the time the **Temporary Certificate of Zoning Compliance** was issued; and

(B) The lot or structure as completed, and the proposed use thereof, conforms to all applicable provisions of this Code.

Permanent Certificates of Zoning Compliance shall be issued free of charge. Failure to obtain a **Permanent Certificate of Zoning Compliance** shall constitute a violation of this Code.

40-9-7 PROCEDURES FOR VIOLATION. Whenever the Zoning Administrator determines, by inspection or by other means, that reasonable grounds exist for believing that any lot, structure, or use is in violation of this Code, he shall so notify the responsible party in writing, and shall institute appropriate measures to secure compliance.

Violations shall be corrected within **thirty (30) days** of receipt of the notification. **(Ord. No. 1749; 03-02-15)**

40-9-8 **CORRECTIVE ACTION ORDER.** To secure compliance with this Code, the Zoning Administrator may issue a corrective action order. Such order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is served upon such party personally, sent by registered mail to his last known address, or posted in a conspicuous place on or about the affected premises. Corrective action orders shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement of what constitutes the violation;
- (C) An outline of the remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) The date by which any appeal of the correction order must be filed, and a statement of the procedure for so filing;
- (F) A statement that failure to abide by a corrective action order constitutes a separate violation of this Code; and
- (G) A statement of the penalties attached to any violation of this Code.

40-9-9 **STOP WORK ORDER.** Whenever any land, structure, or use is being developed, erected, or established contrary to plans approved at the time the **Temporary Certificate of Zoning Compliance** was issued, the Zoning Administrator may order that such work be stopped immediately. The Zoning Administrator stop-work order may be served on any person engaged in or responsible for such work, or may be posted in a conspicuous place on or about the affected premises. Failure to abide by a stop-work order shall be deemed a separate violation of this Code.

40-9-10 **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Zoning Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition. The Zoning Administrator shall take no such action until he has consulted with the City Attorney.

40-9-11 **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 Zoning Administrator. The Zoning Administrator shall record such complaints, immediately investigate, and if necessary, institute appropriate corrective measures.

40-9-12 **PENALTIES FOR VIOLATION.**

- (A) Failure to comply with any provision of this Code shall constitute a misdemeanor, and each day that such violation continues shall be considered a separate offense.
- (B) Any person who is convicted of a violation of this Code may be fined up to **Five Hundred Dollars (\$500.00).**
- (C) Nothing contained in this Section shall prevent this Municipality from taking any other lawful action that may be necessary to secure compliance with this Code.

ARTICLE X - SPECIAL USES AND AMENDMENTS

40-10-1 **SPECIAL USE PERMITS.** This Code divides this Municipality into various districts and permits in each district only those uses which are clearly compatible with one another. Certain other uses, because of their special operation or physical characteristics, may or may not have a detrimental impact on nearby permitted use, depending upon their precise location, manner of operation, and other factors. Such "special uses" require careful case-by-case review and may be allowed only by a favorable majority vote of all aldermen then holding office after a hearing conducted by the Planning Commission as provided herein. In the event any proposed special use fails to receive the approval of the Planning Commission after the hearing, then the proposed special use shall not be approved by the corporate authorities except by a favorable **two-thirds (2/3) vote** of all aldermen then holding office.

40-10-2 **APPLICANT.** Every applicant for a special use permit shall submit to the Zoning Administrator, in narrative or graphic form, any or all of the items of information enumerated in **Section 40-9-4** that he may require. When the application is complete, the Zoning Administrator shall forward it, together with his recommendation, to the Planning Commission for further consideration.

40-10-3 **HEARING.** The Planning Commission shall hold a public hearing on any application for a special use permit not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-10-4 **NOTICES CONCERNING SPECIAL USE.** The Planning Commission shall give notice of the public hearing not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing. The notice shall contain the following: the time, date and place of the hearing; the legal description and property index number or the address and property index number of the parcel or parcels for which the special use is requested; and a brief statement describing the proposed special use; the name and address of the owner(s) of the parcel or parcels; and the name and address of the applicant(s) requesting the special use. The notice shall be given in the following manner:

(A) by publication one or more times in one or more newspapers published in the Municipality;

(B) by personal delivery or U.S. Mail to the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located and as appears from the authentic tax records of such county, of all property within **one hundred fifty (150) feet** in each direction of the location for which the special use is requested; provided, the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the **one hundred fifty (150) feet** requirement. **(Ord. No. 1692; 01-21-13)**

40-10-5 **FACTORS CONSIDERED.** In making their decision the Planning Commission shall consider the following factors:

- (A) Whether the proposed design, location, and manner of operation of the proposed special use is protective of the public health, safety and welfare;
- (B) The effect the proposal would have on the value of neighboring property;
- (C) The effect the proposal would have on this Municipality's overall tax base;
- (D) The effect the proposal would have on public utilities and on traffic circulation on nearby streets; and
- (E) Whether there are any facilities nearby that require special protection.

40-10-6 RECOMMENDATION BY PLANNING COMMISSION, STANDARDS.

After the holding of a hearing as provided herein, the Planning Commission shall make a recommendation to the City Council to grant or to deny a proposed special use permit. Thereafter the City Council shall act on the request for a special use permit at a regularly scheduled meeting. Any proposed special use which fails to receive the approval or a favorable recommendation from the Planning Commission shall not be approved by the corporate authorities except by a favorable **two-thirds (2/3) vote** of all aldermen then holding office.

40-10-7 TEMPORARY USE PERMITS. As set forth in **Section 40-3-7**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The City Council shall issue no temporary use permit for a period longer than **one (1) year**, but may renew any such permit as they see fit.

40-10-8 AMENDMENTS. In accordance with Illinois law and the provisions of this Section, the City Council may amend the regulations imposed and the districts established in this Code. Any proposed alteration of district boundaries or proposed change in the status of any use—whether permitted, special, or prohibited—shall be treated as a proposed amendment and dealt with accordingly. Amendments may be proposed by the City Council, the Zoning Administrator, Planning Commission, or any party of interest.

40-10-9 FILING. Any proposal to amend this Code shall be filed on a prescribed form with the Zoning Administrator who shall forward it, together with his recommendation, to the Planning Commission.

40-10-10 HEARING. The Planning Commission shall hold a public hearing on every amendment proposal not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-10-11 NOTICES CONCERNING AMENDMENT. The Planning Commission shall give notice of the public hearing not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing. The notice shall contain the following: the time, date and place of the hearing; the legal description and property index number or the address and property index number of the parcel or parcels for which the amendment is requested; and a brief statement describing the proposed amendment; the name and address of the owner(s) of the parcel or

parcels; and the name and address of the applicant(s) requesting the amendment. The notice shall be given in the following manner:

(A) by publication one or more times in one or more newspapers published in the Municipality;

(B) by personal delivery or U.S. Mail to the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located and as appears from the authentic tax records of such county, of all property within **one hundred fifty (150) feet** in each direction of the location for which the amendment is requested; provided, the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the **one hundred fifty (150) feet** requirement. **(Ord. No. 1692; 01-21-13)**

40-10-12 ADVISORY REPORT/FINDINGS OF FACT. No later than **ten (10) days** after the public hearing the Planning Commission shall submit their advisory report/findings of fact to the City Council. The Planning Commission shall not recommend the adoption of any amendment unless they find that such amendment is in the public interest and not merely for the benefit of the party proposing it. Where the effect of a proposed amendment is to alter district boundaries or to change the status (permitted, special, or prohibited) of any use, the Planning Commission shall make findings regarding all of the following matters:

(A) Existing uses of property in the vicinity of the property in question;

(B) The district classification of property in the vicinity of the property in question;

(C) The suitability of the property in question for uses already permitted under the existing district classification;

(D) The trend of development in the vicinity of property in question, including changes (if any) which may have taken place since that property was placed in its present district classification.

40-10-13 DECISION BY CITY COUNCIL. The City Council may act on every proposed amendment at its next regularly scheduled or any other regularly scheduled meeting following submission of the Planning Commission's advisory report. Except as provided in **Section 40-10-14**, the City Council, without further public hearing, may vote upon any proposed amendment or may refer it back to the Planning Commission for further consideration.

40-10-14 WHEN TWO-THIRDS (2/3) VOTE IS REQUIRED. The favorable vote of **two-thirds (2/3)** of the aldermen then holding office shall be required to pass an amendment to this Code when the amendment is opposed in writing by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across any alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered as evidenced by a written protest signed by the required **twenty percent (20%)** and filed with the City Clerk.

40-10-15 NOTICE TO APPLICANT OF WRITTEN PROTEST. In cases of written opposition to an amendment of this Code as prescribed in **Section 40-10-14**, a copy of the written protest shall be served by the protester or protesters on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

ARTICLE XI - PLANNING COMMISSION AND VARIANCES

40-11-1 PLANNING COMMISSION ESTABLISHED. The Planning Commission established in **Chapter 4** of the Revised Code of Ordinances of the City of Carlinville is hereby authorized to and shall perform the following duties:

(A) to hear appeals from any zoning-related decision or order made by the Zoning Administrator;

(B) to hear upon requests for lot-size/bulk variances in accordance with the standards established in this Code; and

(C) to perform such other duties as the City Council may prescribe.

All meetings of the Planning Commission shall be held at the call of the Chairman and at such times as the Commission may determine. All Commission meetings shall be open to the public. The Commission may adopt their own rules of meeting procedures so long as they do not conflict with this Code or the applicable Illinois Statutes. The Chairman, or in his absence the Acting Chairman, may administer oath and compel the attendance of witnesses. **Four (4) members** of the Commission shall constitute a quorum and the affirmative vote of at least **four (4) members** shall be necessary to authorize any Commission actions.

The Commission shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or decision of the Commission shall be filed immediately in the City Clerk's office and shall be a public record.

40-11-2 APPEALS. Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Planning Commission on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law and the provisions of this Section.

40-11-3 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Zoning Administrator and the Commission a written notice specifying the grounds for appeal. Not more than **five (5) working days** after the notice of appeal has been filed, the Zoning Administrator shall transmit to the Commission all records pertinent to the case.

40-11-4 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Zoning Administrator certifies to the Commission, 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 Commission or the Circuit Court grants a restraining order for due cause, and so notifies the Zoning Administrator.

40-11-5 HEARING. The Commission shall hold a public hearing on every appeal not later than **sixty (60) days** after the filing of the appeal notice. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-11-6 NOTICE. Notice of the hearing shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

(A) By first class mail to the person making the appeal and to the last known owner or owners of property adjoining the premises in question; and

(B) By publication in a newspaper published within this Municipality.

This notice shall indicate the time, date and place of the hearing, the location of the property and the nature of the issue involved.

40-11-7 DECISION BY THE PLANNING COMMISSION. The Commission shall be required to decide all appeals within **thirty (30) days** after the final hearing thereon. A certified copy of the Commission's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him and he shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Commission.

40-11-8 LOT SIZE/BULK VARIANCE. A "lot size/bulk variance" means a relaxation of the strict application of the lot and/or bulk requirements applicable to a particular lot or structure.

40-11-9 APPLICATION. Every application for a lot size/bulk variance shall be filed with the Zoning Administrator on a prescribed form. The application shall contain sufficient information to allow the Commission to make an informed decision.

40-11-10 HEARING. The Commission shall hold a public hearing on any variance application not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-11-11 NOTICES CONCERNING VARIANCE. The Planning Commission shall give notice of the public hearing not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing. The notice shall contain the following: the time, date and place of the hearing; the legal description and property index number or the address and property index number of the parcel or parcels for which the variance is requested; and a brief statement describing the proposed variance; the name and address of the owner(s) of the parcel or parcels; and the name and address of the applicant(s) requesting the variance. The notice shall be given in the following manner:

(A) by publication one or more times in one or more newspapers published in the Municipality;

(B) by personal delivery or U.S. Mail to the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located and as appears from the authentic tax records of such county, of all property within **one hundred fifty (150) feet** in each direction of the location for which the variance is requested; provided, the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the **one hundred fifty (150) feet** requirement. **(Ord. No. 1692; 01-21-13)**

40-11-12 STANDARDS FOR VARIANCES. The Commission shall not recommend, nor shall the City Council grant, any lot size/bulk variance unless they find that the proposed variance is consistent with the general purposes of this Code, and that the strict application of the district requirements would result in great practical difficulties or hardship to the applicant. More specifically, the Commission shall not recommend, nor shall the City Council decide upon, a variance unless they determine, based upon the evidence presented to them, that:

(A) The property in question cannot yield a reasonable return if the district regulations are strictly applied; and

(B) The plight of the applicant is due to peculiar circumstances not of his own making; and

(C) The variance, if granted, will not be detrimental to the public health, safety, and welfare.

40-11-13 RECOMMENDATION BY PLANNING COMMISSION. After the holding of a hearing as provided herein the Planning Commission shall make a recommendation to the City Council to grant or to deny a proposed variance. Thereafter the corporate authorities at a regularly scheduled City Council meeting may act on any proposed variation or may refer it back to the Planning Commission for further consideration. Any proposed variation which fails to receive the recommendation of the Planning Commission shall not be passed by the corporate authorities except by the favorable vote of **two-thirds (2/3)** of all aldermen of the Municipality. A certified copy of the City Council's decision shall be transmitted to the applicant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him and he shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Commission. The City Council shall specify the terms of relief granted (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Council's reasons for granting or denying any requested variance.

40-11-14 UNAUTHORIZED VARIANCES (USE VARIANCE). Under no circumstances shall the Planning Commission grant a variance to allow any use that is specifically or by implication prohibited in the district involved. A "use variance" constitutes an amendment to this Code and may be obtained only in the manner set forth in **Section 40-10-8**. Any previously approved "use variance" shall become void upon the discontinuance of the use.

40-11-15 FILING FEES. By resolution, the City Council shall establish (and may periodically amend) a schedule of filing fees for the various permits and procedures listed in this Code. Said fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or revenue-raising device. All such fees shall be paid by the applicant to the City and are non-refundable. A current schedule of filing fees shall be maintained in the Zoning Administrator's office and on file with the City Clerk.

(Ord. No. 1524; 04-03-06)

CITY OF CARLINVILLE, ILLINOIS
SCHEDULE 40-3-19: PERMITTED USES AND ACCESSORY USES, SPECIAL USES
(Ord. No. 1772; 08-01-16)

Zoning District	Permitted Principal Uses and Accessory Uses	Special Uses
A Agriculture	Agriculture Uses Single Family Dwellings Non-Commercial Recreational Uses Clubs and Lodges Anything in "R" District	Commercial Recreational Uses Extraction of Minerals Cemeteries
S-1 & S-2 Single Family Residence	Single Family Dwellings Modulars (Sectional Houses)	Two-Family Dwellings Public Utility Buildings Licensed Day Care Auditoriums, Funeral Homes Churches, Clubs and Lodges
MH Mobile Home Residence	Mobile Homes – Single & Double-Wide	None
MF Multi-Family Residence	Two-Family Dwellings Multiple Family Dwellings Boarding Houses	Public Utility Buildings
C-1 Neighborhood Commercial	Retail and Service Uses Day Care Center Storage Facilities Multi Use Residential and Commercial Building Eating and Drinking Places	Filling Station Office Uses Mini-Warehouses Public Utility Buildings
C-2 General Commercial	Motor Vehicle Services Hotels Any permitted uses in the "C-1" District	None
G Government	City, County, State and Federal Properties	Neighborhood Commercial
R Rehabilitation, Religion, Education	Hospitals Schools Rehabilitation Facilities Community Residences Auditoriums	Churches Extended Care Nursing Homes Assisted Living Facilities Funeral Homes
P City Park	Playgrounds Walk Trails Recreational Uses	Skate Parks Sporting Fields
I Industrial	Manufacturing Public Utility Buildings Wholesale Business Laboratories	Truck or Freight Terminals Warehousing Airports and Support Services

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