

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

[Supplemented January 1, 2022]

**PREPARED BY:
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CITY OF ELMWOOD

ORDINANCE NO. 2000-1

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

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

THIS 20TH DAY OF MARCH, 2000

**Published in book form by authority of the City Council of the City of Elmwood,
Peoria County, Illinois this 20th day of March, 2000.**

**UNDER THE SUPERVISION OF
MATTHEW C. POTTS,
ATTORNEY-AT-LAW**

ORDINANCE NO. 2000-1

AN ORDINANCE ADOPTING A REVISED CODE OF ORDINANCES FOR THE CITY OF ELMWOOD, PEORIA COUNTY, ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELMWOOD, PEORIA COUNTY, ILLINOIS, THAT:

SECTION 1: The following exhibit shall be the "Revised Code of Ordinances" of the City of Elmwood, Peoria 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: Effective. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

SECTION 4: Passed this 20th day of March, 2000 by the Mayor and City Council of the City of Elmwood, Peoria County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.

/s/ Dotty S. Naumann
DOTTY S. NAUMANN, CITY CLERK
ELMWOOD, ILLINOIS

<u>NAME</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>	<u>CONFLICT</u>
<u>Ekena</u>	X				
<u>Bollinger</u>	X				
<u>Dwyer</u>	X				
<u>Neiders</u>	X				
<u>Howard</u>				X	
<u>Moody</u>				X	

Approved by the Mayor of the City of Elmwood, Peoria County, Illinois, this 20th day of March, 2000.

/s/ Edward L. Cosby
EDWARD L. COSBY, MAYOR
ELMWOOD, ILLINOIS

ATTEST:

/s/ Dotty S. Naumann
DOTTY S. NAUMANN, CITY CLERK
ELMWOOD, ILLINOIS

(SEAL)

CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF PEORIA) **ss. CITY CLERK'S OFFICE**
CITY OF ELMWOOD)

I, Dotty S. Naumann, City Clerk of the City of Elmwood, Illinois, do hereby certify that the following Revised Code of Ordinances of the City of Elmwood, Illinois, published by authority of the City Council was duly passed by the City Council of the City of Elmwood, 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 Elmwood, Illinois, this 20th day of March, 2000.

/s/ Dotty S. Naumann
DOTTY S. NAUMANN, CITY CLERK
ELMWOOD, ILLINOIS

(SEAL)

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[Supplement No. 20; 05-01-13]

ELMWOOD, ILLINOIS

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2019-09	Administration: Collector	12/05/19	Section 1-2-111(C)
2020-01	Utilities: Connections	01/07/20	Section 38-2-5
2020-02	Business: Cannabis	01/21/20	Ch. 7; Art. VI
2020-03	Motor Vehicles: Parking	03/05/20	Ch. 24; Schd. "F"
2020-07	Zoning: Solar Energy	11/20/20	Chapter 40
2020-08	Zoning: Cannabis	12/03/20	Chapter 40
2020-09	Business: Cannabis	12/03/20	Ch. 7; Art. VI Repealed
2020-10	Utilities: Rates	12/03/20	Secs. 38-2-11; 38-2-12
2021-01	Motor Vehicles: One-Way Streets	05/07/21	Ch. 24; Schd. "B"
2021-02	Motor Vehicles: Handicapped Parking	07/08/21	Ch. 24; Schd. "H"
2022-01	Utilities: Rates	01/18/22	Secs. 38-2-11; 38-2-12

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**". 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. **(See 65 ILCS Sec. 5/1-2-3)**

1-1-2 **ACCEPTANCE.** The City Code as hereby presented in printed form shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the City of general and permanent effect, except the excluded ordinances enumerated in **Section 1-1-8**. **(See 65 ILCS Sec. 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 immediately forwarded to the codifiers 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. **(See 65 ILCS Sec. 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; Salary Ordinances; Ordinances Establishing, Naming, or Vacating Streets, Alleys, or Other Public Places; Improvement Ordinances; Bond Ordinances; Ordinances Relating to Elections; Ordinances Relating to the Transfer or Acceptance of Real Estate by or from the City; and all Special Ordinances.

1-1-9 **PUBLIC UTILITY ORDINANCES.** No ordinance relating to railroads or railroad crossings with streets and other public ways or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this 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 PEORIA) **ss.** **CITY CLERK'S OFFICE**
CITY OF ELMWOOD)

I, Dotty S. Naumann, City Clerk of the **City of Elmwood, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the City of Elmwood, Illinois of 2000**, published by authority of the City Council were duly passed by the City Council of the **City of Elmwood, 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 Elmwood, Illinois**, this _____ day of _____, 2000.

DOTTY S. NAUMANN
CITY CLERK
CITY OF ELMWOOD

(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 Elmwood, Illinois.

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

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

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

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

"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 **July 1st of each year and end on June 30th of the following year.** **(See 65 ILCS Sec. 5/1-1-2[5])**

"KNOWINGLY" imports only a knowledge that the facts exist which bring the act or mission 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIVISION IV - GENERAL PENALTY

1-1-20 **PENALTY.**

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

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

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

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

(E) All municipal ordinance offenses may be satisfied without a court appearance by written plea of guilty and payment of the minimum fine, plus court costs, unless a court appearance is required by the ordinance violated. **(See 65 ILCS Sec. 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**", **Article VIII** entitled "**Possession and Use of Cannabis and Drug Paraphernalia**" of **Chapter 27** entitled "**Offenses**" and **Article IX** entitled "**Possession and Use of Synthetic Alternative Drugs**" of **Chapter 27** entitled "**Offenses**" may settle and compromise the claim by paying to the City the sum of **Twenty-Five Dollars (\$25.00)** within **ten (10) days** from the time such alleged offense was committed or by paying to the City Clerk the sum of **Fifty Dollars (\$50.00)** subsequent to said **ten (10) day period** and prior to such person being issued a complaint or notice to appear, which said complaint or notice to appear may be issued after **thirty (30) days** from the time such offense was committed.

(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.

(Ord. No. 2012-1; 01-17-12)

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. **(See 65 ILCS Sec. 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.** The City Council shall consist of the Mayor and **six (6)** Aldermen, **two (2)** from each of the **three (3) wards**, and their term of office shall be for **four (4) years**, and until their successors are elected and have qualified. **(See 65 ILCS Sec. 5/3.1-10-50(D) and 5/3.1-20-10) (See Section 1-4-1 for Wards)**

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) Tuesdays** in each month at **7:00 P.M.** When said meeting date falls upon a legal holiday, the meeting shall be held on the following Tuesday at the same hour. Adjourned meetings may be held at such times as may be determined by the Council. Public notice of regular meetings shall be given in accordance with the **Meetings of Public Agencies Act of the State of Illinois, Illinois Compiled Statutes, Ch. 5, Sections 120/1 through 120/5. (See 65 ILCS Sec. 5/3.1-40-25) (Ord. No. 1090; 08-07-95)**

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

1-2-4 **VACANCY.** When a vacancy occurs, if more than **twenty-eight (28) months** remain in the term and the vacancy occurs not less than **one hundred thirty (130) days** before the general municipal election, next scheduled under the general election law, the office shall be filled for the remainder of the term at that general municipal election. During the period from the time that the vacancy occurs until the next election of Aldermen, the Mayor shall appoint a qualified person to the office subject to the advise and consent of the City Council. **(See 65 ILCS Sec. 5/3.1-10-50(B))**

1-2-5 **COMMITTEES.** The following standing committees of the City Council are hereby established, to-wit:

- (A) (1) Public Works – Water and Sewer
- (2) Streets and Public Buildings
- (3) Public Safety
- (4) Finance
- (5) Rules and Ordinances
- (6) General Nuisance

NOTE: **Committee appointments are subject to change at the discretion of the Mayor.**

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

1-2-6 **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.

1-2-7 **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. **(See 65 ILCS Sec. 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.

1-2-8 **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. **(See 65 ILCS Sec. 5/3.1-40-20)**

1-2-9 **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.

[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.

1-2-10 **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. **(See 65 ILCS Sec. 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.
 - (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.

(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.** No person other than a member of the Council shall address that body.

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

(F) **Debate.** No member shall speak more than once on the same question, except by consent of the Presiding Officer or unless **three-fourths (3/4)** of the corporate authorities agree that one's right to debate should be limited to speak only once and then not

until every other Alderman desiring to speak shall have had an opportunity to do so; provided, however, that the proponent of the matter under consideration, as the case may be, shall have the right to open and close debate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 shall always be in order, except:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the passage or adoption of such motion, then in such case, a motion to reconsider may be made and seconded only by those who voted in the affirmative on such question to be reconsidered.

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

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

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

1-2-12 **AGENDA.** An agenda for each regular and special meeting shall be furnished and posted in the manner provided by Section 2.02 of the Illinois Open Meetings Act. **(See 5 ILCS Sec. 120/2.02)**

1-2-13 **RESERVED.**

DIVISION III - ORDINANCES

1-2-14 ORDINANCES.

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

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

(C) **Vote Required-Yeas and Nays Record.** The passage of all ordinances for whatever purpose, and of any resolution or motion (1) to create any liability against a city or (2) for the expenditure or appropriation of its money, shall require the concurrence of a majority of all members then holding office on the City Council, including the Mayor, unless otherwise expressly provided by the Code or any other act governing the passage of any ordinance, resolution, or motion; provided that, where the Council consists of an odd number of Aldermen, the vote of the majority of the Aldermen shall be sufficient to pass an ordinance. The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the City Council. In addition, the corporate authorities at any meeting may by unanimous consent to take a single vote by yeas or nays on the several questions of the passage on any two (2) or more of the designated ordinances, orders, resolutions or motions placed together for voting purposes in a single group. The single vote shall be entered separately in the journal under the designation "omnibus vote", and in such event the Clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case in lieu of entering names of the members of City Council voting "yea" and of those voting "nay" on the passage of each of the designated ordinances, orders, resolutions and motions included in such omnibus group or consent agenda. The taking of such single or omnibus vote and such entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance with the requirements of this section to all intents and purposes and with like effect as if the vote in each case had been separately by yeas and nays on the question of the passage of each ordinance, order, resolution and motion included in such omnibus group, and separately recorded in the journal. Likewise, the yeas and nays shall be taken upon the question of the passage of any other resolution or motion at the request of any Alderman and shall be recorded in the journal. **(See 65 ILCS Sec. 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 such resolution or motion, the Mayor shall sign the same. Those ordinances, resolutions and motions which the Mayor disapproves shall be returned to the City Council, with his 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. **(See 65 ILCS Sec. 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. If, after reconsideration, **two-thirds (2/3)** of all the Aldermen then holding office on the City Council shall 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. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 5/3.1-40-55)**

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

DIVISION IV - GENERAL PROVISIONS

1-2-19 CORPORATE SEAL.

(A) The Seal provided by the City Council shall be circular in form with the words, "**City of Elmwood**" and "**State of Illinois**" in the exterior circle and the words "**Corporate Seal**" in the center. **(See 65 ILCS Sec. 5/2-2-12)**

(B) The Corporate Seal shall be used as such seal in all cases provided for by law or by the ordinances of the City and in all other cases in which, by law and custom, it is usual and necessary for the corporation to use a seal. The seal shall be and remain with the City Clerk who shall be the legal custodian. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 5/3.1-15-15)**

NOTE: One (1) member may serve on the Library Board. (See 75 ILCS Sec. 5/4-1 and 50 ILCS Sec. 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). **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 5/3.1-10-30)**

(D) **Books Delivered to Successor.** Every officer shall, upon going out of office, deliver to his successor, all books, papers, furniture, and other things appertaining to such office, and which are the property of the City. Within **five (5) days** after notification and request, any person who has been an officer of a municipality is required to deliver to his successor in office, all property, books and effects in his possession belonging to the municipality, or pertaining to the office he has held. Upon his refusal to do so, he shall be liable for all damages caused thereby, and shall, upon conviction, be penalized according to the provisions of **Section 1-1-20** of this Code. He shall not receive his final check until his City Code Book and keys are turned over to the City Clerk. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 5/3.1-15-25)**

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

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

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

(See 65 ILCS Sec. 5/3.1-15-20)

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

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

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

(C) A person is not eligible for the office of Alderman unless that person has resided in the municipality, as the case may be, at least one (1) year next preceding the election or appointment. **(See 65 ILCS Sec. 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	\$3,000.00
(2)	City Treasurer	\$100,000.00
(3)	City Clerk	\$10,000.00
(4)	City Collector	\$10,000.00
(5)	Finance Committee Alderman	\$100,000.00

(B) **Premium Payment by City.** The surety bonds required by law shall be paid by the City. **(See 5 ILCS Sec. 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.
(Ord. No. 2018-06; 05-09-18) (See Section 1-2-75)

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 and 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 provision of this Code, the City shall not indemnify or cause to defend any municipal officers, elected officials or employees if the municipal officers, elected officials or employees have liability insurance insuring the municipal officers, elected

officials or employees from the alleged claim; however, the City shall indemnify the municipal officer, elected official or employee the personal deductible limits of his personal policy. **(See 745 ILCS Sec. 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. **(Ord. No. 2019-01; 02-05-19)**

(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 or any bids or parts of all bids when the public interest will be served thereby.

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

(I)

Award of Contract.

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

(J) **Open Market Procedure.** All work and purchases of supplies, materials and services of less than the estimated value of **Twenty-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. **(Ord. No. 2019-01; 02-05-19)**

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

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

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

1-2-28 PECUNIARY INTEREST IN CONTRACTS -- PROHIBITION.

(A) No municipal officer shall be interested, directly or indirectly, in his own name or in the name of any other person, association, trust or corporation, in any contract, work or business of the municipality, or in the sale of any article, whenever the expense, price and consideration of the contract, work business or sale is paid either from the treasury or by any assessment levied by any statute or ordinance. No municipal officer shall be interested, directly or indirectly, in the purchase of any property which:

- (1) belongs to the municipality, or
- (2) is sold for taxes or assessments, or
- (3) is sold by virtue of legal process at the suit of the municipality.

(B) However, any elected or appointed member of the governing body and any person serving on a municipal advisory panel or commission may provide materials, merchandise, property, services or labor, if:

- (1) the contract is with a person, firm, partnership, association, corporation or cooperative association in which such interested member of the governing body of the municipality or advisory panel or commission member has less than a seven and one-half percent (7 1/2%) share in the ownership; and
- (2) in the case of an elected or appointed member of the governing body, such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and
- (3) in the case of an elected or appointed member of the governing body, such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum; and
- (4) such contract is approved by a majority vote of those members presently holding office; and
- (5) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds **One Thousand Five Hundred Dollars (\$1,500.00)**, but the contract may be awarded without bidding if the amount is less than **One Thousand Five Hundred Dollars (\$1,500.00)**; and
- (6) the award of the contract would not cause the aggregate amount, of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Twenty-Five Thousand Dollars (\$25,000.00)**.

(C) In addition to the above exemption, any elected or appointed member of the governing body and any person serving on a municipal advisory panel or commission may provide materials, merchandise, property, services or labor if:

- (1) the award of the contract is approved by a majority vote of the governing body of the municipality provided that, in the case of an elected or appointed member of the governing body, any such interested member shall abstain from voting; and
- (2) the amount of the contract does not exceed **Two Thousand Dollars (\$2,000.00)**; and
- (3) the award of the contract would not cause the aggregate amount of all such contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Four Thousand Dollars (\$4,000.00)**; and
- (4) in the case of an elected or appointed member of the governing body, such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning present for the purposes of establishing a quorum.

(D) A contract for the procurement of public utility services by a municipality with a public utility company is not barred by this Section by one (1) or more members of the governing body being an officer or employee of the public utility company or holding interest if no more than **seven and one-half percent (7 1/2%)** in the public utility company, or holding an ownership interest of any size if the municipality has a population of less than **seven thousand five hundred (7,500)** and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body having such an interest shall be deemed not to have a prohibited interest under this Section.

(E) Any officer who violates this Section is guilty of a violation of this Code and in addition thereto any office held by such person so convicted shall become vacant and shall be so declared as part of the judgment of the court.

(F) Nothing contained in this Section, including the restrictions set forth in subsections (B), (C) and (D), shall preclude a contract or deposit of monies, loans or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member or members of the governing body of the municipality are interested in such bank or savings and loan association as an officer or employee or as a holder of less than **seven and one-half percent (7 1/2%)** of the total ownership interest. A member or members holding such an interest in such a contract shall not be deemed to be holding a prohibited interest for purposes of this Act. Such interested member or members of the governing body must publicly state the nature and extent of their interest during deliberations concerning the proposed award of such a contract, but shall not participate in any further deliberations concerning the proposed award. Such interested member or members shall not vote on such a proposed award. Any member or members abstaining from participation in deliberations and voting under this Section may be considered present for purposes of

establishing a quorum. Award of such a contract shall require approval by a majority vote of those members presently holding office. Consideration and award of any such contract in which a member or members are interested may only be made at a regularly scheduled public meeting of the governing body of the municipality. **(See 65 ILCS Sec. 5/3.1-55-10)**

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

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

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

1-2-31 EXPENSES - REIMBURSEMENT. The following provisions shall apply to all expense reimbursements for the City, to-wit:

(A) **Definitions.** The following terms shall have the following meanings for purposes of this Section:

(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) **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) **Official Business for which Expenses may be Reimbursed.**

(1) An official of the City shall be entitled to reimbursement for travel, including meals or lodging, related to the following types of official business:

(a) Education conferences related to the duties of the officer of the City; and,

(b) Site visits to current or potential vendors of the City.

(2) An employee of the City shall be entitled to reimbursement for travel, including meals or lodging, related to the following types of official business:

(a) Education conferences related to the duties of the employee of the City; and,

(b) Site visits to current or potential vendors of the City.

(C) **Maximum Allowable Reimbursement for Expenses.** Unless otherwise excepted herein, the maximum allowable reimbursement for an employee or officer

of the City shall be those rates set by the Reimbursement Schedule of the Governor's Travel Control Board in effect at the time the expense was incurred.

(D) **City Council Approval.** The following travel expenses may be approved for reimbursement only by a roll call vote at an open meeting of the City Council:

- (1) Any expense of any officer or employee that exceeds the maximum permitted in paragraph (C) hereof; and,
- (2) Any travel expenses of the Mayor or any Aldermen.

(E) **Documentation.** Before any travel expense may be approved for reimbursement, the individual requesting reimbursement shall submit to the City Council a statement of travel expenses on a form approved by the City Council, together with the following minimum documentation:

- (1) An estimate of the travel expenses if expenses have not been incurred or a receipt for the travel expenses if the expenses have already been incurred;
- (2) The name of the individual who received or is requesting the reimbursement;
- (3) The job title or office of the individual who received or is requesting the reimbursement; and,
- (4) The date or dates and nature of the official business in which the travel expenses were or will be expended.

All documents and information submitted under this Section are public records subject to disclosure under the Freedom of Information Act, **5 ILCS 140/1.**

(F) **Entertainment and/or Alcohol Expenses.** No employee or officer of the City shall be reimbursed by the City for any entertainment or for any expense for alcohol. **(Ord. No. 2017-05; 05-16-17) (See 50 ILCS 150/ et seq.)**

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.

1-2-35 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 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 under the Act, 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 or if it is otherwise repealed.

(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. 2004-4; 05-04-04)

1-2-36 - 1-2-39 RESERVED.

DIVISION V - MAYOR

1-2-40 **ELECTION.** The Mayor shall be elected for a **four (4) year** term and shall serve until a successor is elected and has qualified. **(See 65 ILCS Sec. 5/3.1-15-5 and 5/3.1-15-10)**

1-2-41 **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. **(See 65 ILCS Sec. 5/3.1-35-35)**

1-2-42 **VACANCY.** If a vacancy occurs in the office of the Mayor 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, the vacancy shall be filled at that general municipal election. The City Council shall elect one of its members as **"Acting Mayor"** who shall perform the duties and shall possess all the rights and powers of the Mayor until a successor to fill the vacancy has been elected and has qualified. **(See 65 ILCS Sec. 5/3.1-10-50)**

1-2-43 **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. **(See 65 ILCS Sec. 5/3.1-15-10 and 3.1-35-20)**

1-2-44 **RESERVED.**

1-2-45 **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. **(See 65 ILCS Sec. 5/3.1-35-30)**

1-2-46 **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. **(See 65 ILCS Secs. 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. **(See 50 ILCS Sec. 105/2)**

1-2-47 **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. **(See 65 ILCS Sec. 5/3.1-35-10)**

1-2-48 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.

1-2-49 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.

1-2-50 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. **(See 65 ILCS Sec. 5/3.1-35-5)**

1-2-51 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.

1-2-52 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. **(See 235 ILCS Sec. 5/4-2)**

1-2-53 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.

1-2-54 **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. **(See 65 ILCS Sec. 5/3.1-45-5)**

1-2-55 **RESERVED.**

DIVISION VI - CITY CLERK

1-2-56 **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. **(See 65 ILCS Sec. 5/3.1-15-5 and 5/3.1-30-5)**

1-2-57 **VACANCY.** Whenever a vacancy occurs in the office of City Clerk, it shall be filled by the Mayor, with the advice and consent of the City Council. The person so appointed shall hold office for the unexpired term of the officer elected. **(See 65 ILCS Sec. 5/3.1-30-5) (Ord. No. 2015-01; 03-03-15)**

1-2-58 **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. **(See 65 ILCS Sec. 5/1-2-5)**

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

(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. **(See 65 ILCS Sec. 5/1-2-4, 5/1-2-5 and 5/3.1-35-90)**

1-2-59 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. **(See 65 ILCS Sec. 5/3.1-35-90)**

1-2-60 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.

1-2-61 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.

1-2-62 ADMINISTRATION OF OATHS. The Clerk shall have the power to administer oaths or affirmations for all lawful purposes. **(See also Section 1-2-22(F)) (See 65 ILCS Sec. 5/3.1-15-20)**

1-2-63 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. **(See 65 ILCS Sec. 5/3.1-35-110)**

1-2-64 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 moneys received and warrants drawn during the preceding month, showing therein from or what sources and on what account moneys were received, and for what purposes and on what account the warrants were drawn or paid.

1-2-65 **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. **(See 65 ILCS Sec. 3.1-10-35)**

1-2-66 **PAYMENTS.** The Clerk shall prepare deposit slips for all moneys received.

1-2-67 **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.

1-2-68 **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. **(See 65 ILCS Sec. 5/3.1-10-40)**

1-2-69 **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. **(See 65 ILCS Sec. 5/3.1-30-10 and 5/3.1-10-45 and 5/3.1-35-95)**

1-2-70 - 1-2-71 **RESERVED.**

DIVISION VII - CITY TREASURER

1-2-72 **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.

1-2-73 **FINANCE COMMITTEE; COUNTERSIGNING.**

(A) 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. **(See 65 ILCS 5/3.1-35-40)**

(B) Along with the Treasurer, the Alderman serving the longest tenure on the standing committee on Finance shall be identified as an authorized signor on all accounts and funds belonging to the City, including safety deposit boxes.

(C) All checks issued from City accounts shall be signed by both the City Treasurer and the Alderman identified in **Section 1-2-73(B)**, which Alderman shall also give bond in the same manner and amount as required of the Treasurer in **Section 1-2-78. (Ord. No. 2018-05; 05-09-18)**

1-2-74 **TREASURER ELECTED; VACANCY.** The Treasurer shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until a successor is elected and has qualified. If a vacancy occurs in the office, it shall be filled by the Mayor, with the advice and consent of the City Council. The person so appointed shall hold office for the unexpired term of the officer elected. **(See 65 ILCS Sec. 5/3.1-30-5)**

1-2-75 **MONEY; WARRANTS; ACCOUNTS; PAYMENTS.** The City Treasurer shall receive all moneys 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. **(See 65 ILCS Sec. 5/3.1-35-40)**

1-2-76 **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. **(See 65 ILCS Sec. 5/3.1-35-40 and 5/3.1-35-45)**

1-2-77 **PERSONAL USE OF FUNDS.** The Municipal 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

moneys 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. **(See 65 ILCS Sec. 5/3.1-35-55)**

1-2-78 **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. **(See 65 ILCS Sec. 5/3.1-10-45)**

1-2-79 **SPECIAL ASSESSMENTS.** The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. **(See 65 ILCS Sec. 5/3.1-35-85)**

1-2-80 **BOOKKEEPING.** The Treasurer shall keep the books and accounts in such a manner as to show with accuracy, all moneys 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. **(See 65 ILCS Sec. 5/3.1-35-40)**

1-2-81 **STATEMENTS.** The Treasurer shall report to the corporate authorities at the first regular monthly meeting, a full detailed account of all receipts and expenditures of the municipality as shown by his or her books up to the time of the report. **(See 65 ILCS 5/3.1-35-45) (Ord. No. 2018-04; 05-03-18)**

1-2-82 **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 moneys received by the Treasurer at the time required by law or by ordinances of the City.

1-2-83 **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. **(See 65 ILCS Sec. 5/3.1-35-65)**

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

1-2-84 **SUBMIT APPROPRIATION TO CITY COUNCIL.** The Treasurer shall on or before the **fifteenth (15th) day of May in each year**, and before the annual appropriations to be made by the City Council, submit to the City Council a report of the estimates as nearly as may be of moneys necessary to defray the expenses of the corporation during the current fiscal year. The Treasurer shall, in said report, classify the different objects and branches of expenditures, giving as nearly as may be the amount required for each; and for the purpose of making such a report, the Treasurer 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.

The Treasurer 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, shall give such other information to the City Council as he or she 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. **(See 65 ILCS Sec. 5/3.1-35-115)**

1-2-85 DEPOSIT OF FUNDS.

(A) **Designation by Council.** The Treasurer is hereby required to keep all funds and moneys in his or her custody belonging to the City in such places of deposit as have been designated by **Section 1-2-85(D)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and moneys of the City in the custody of the 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 Municipal 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 Municipal 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 moneys of the municipality deposited with the bank or savings and loan association that exceeds the insurance limitation provided by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

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

(D) Each Municipal Treasurer may:

- (1) combine moneys 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 moneys of more than one fund of a single municipality or moneys of more than one municipality are combined for investment purposes, the moneys 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. **(See 65 ILCS Sec. 5/3.1-35-50 and 30 ILCS Sec. 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 moneys in his custody belonging to this municipality:

- (1) Farmers State Bank, Elmwood, IL
- (2) Associated Bank

1-2-86 INVESTMENT POLICY.

(A) **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.

(B) **Scope.** This policy includes all public funds of the City.

(C) **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.

(D) **Objective.** The primary objective, in order of priority, shall be:

(1) **Legality.** Conformance with federal, state and other legal requirements.

(2) **Safety.** Preservation of capital and protection of investment principal.

(3) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.

(4) **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.

(E) **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.

(F) **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.

(G) **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.

(H) **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.

(I) **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.

(J) **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.

(K) **Diversification and Maturity Limitations.** The City shall diversify its investments to the best of its ability based on the type of funds invested and the anticipated cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity. Invested funds shall be diversified to minimize risk or loss resulting from over-concentration of assets in a specific maturity, specific issuer or specific class of securities. At a minimum, diversification standards by security type and issuer shall be:

U.S. Treasuries and Securities w/ U.S. Government Guarantee	100%
U.S. Government Agencies & Instrumentalities	Not to Exceed 7%
Fully Insured or Collateralized Bank Instruments	Not to Exceed 75%
Money Market Funds	Not to Exceed 50%
Local Government Investment Pools	Not to Exceed 50%
Repurchase Agreements of Government Securities	Not to exceed 50%

Matching maturities with cash flow dates will reduce the need to sell securities prior to maturity, thus reducing market risk. The expressed judgment of any governing authority as to the time when any public funds will be required for expenditure or be redeemable is final and conclusive.

(L) **Internal Control.** The Treasurer shall establish an annual process of independent review by an external auditor. This review will provide internal control and written operational procedures by assuring compliance with laws, policies and procedures.

(M) **Performance Measures/Investment Guidelines.** This investment portfolio will be managed and measured in accordance with the parameters specified within this policy and in a manner appropriate to the nature of the funds, the purpose for the funds, and the amount of the public funds within the investment portfolio.

(N) **Reporting.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the Mayor and 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 Mayor and City Council. A statement of the market value of the portfolio shall be issued to the Mayor and City Council quarterly. In addition to market value as of the report date, the quarterly reports shall also include information regarding securities in the portfolio by class or type, book value and income earned.

(O) **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. This policy shall be made available to the general public at City Hall. **(See 30 ILCS Sec. 235/2.5)**
(Ord. No. 99-8; 10-05-99)

1-2-87 RESERVED.

DIVISION VIII - JUDICIARY

1-2-88 **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 an annual salary as determined by the appropriation ordinance, compensation for office services and advice, and shall receive reasonable fees for other 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. **(See 65 ILCS Sec. 5/3.1-30-5)**

1-2-89 **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 all other boards and commissions now existing or hereafter established by the City Council. The Attorney shall perform all legal services as may be required for those boards and commissions.

1-2-90 - 1-2-104 RESERVED.

DIVISION IX - SUPERINTENDENT OF PUBLIC WORKS

1-2-105 POSITION ESTABLISHED. There is hereby created the office of Superintendent of Public Works who shall hereafter be known as the "**Superintendent**". He shall be appointed by the Mayor with the advice and consent of the City Council at the annual meeting.

1-2-106 DUTIES AND RESPONSIBILITIES. The duties and responsibilities of the Superintendent shall be as follows:

(A) Shall be responsible for the overall supervision of the utility departments.

(B) Shall coordinate the various work projects among the utility and street departments and part departments.

(C) Shall file timely reports containing his recommendations with the Mayor and the City Council.

(D) Shall plan for the operation of utility departments with special emphasis given to employment, dismissal of personnel and securing price quotations.

(E) Shall be responsible for assisting with the development and preparation of an operating and capital budget in all departments that are his responsibility.

(F) Shall be responsible for the general and preventive maintenance of all departments.

(G) Shall be the primary person responsible for overseeing construction of new facilities.

(H) Shall be responsible for submitting recommendations to the water, sewer and street committees regarding new facility construction.

(I) Shall be responsible for preparing "**as built**" and field drawings and maps for the City records.

(J) Shall be responsible for maintenance preparation and storage of all utility maps and records.

(K) Shall assign labor forces as needed and shall inspect new utility services.

(L) Shall supervise the construction and maintenance of the utility services, including, but not limited to transmission, metering and distribution.

(M) Shall prepare a monthly report summarizing the activities in the utility systems and departments.

(N) Shall prepare monthly and annual reports required by the State and/or Federal authorities.

(O) Shall have the authority to make all operating and capital purchases up to **One Hundred Dollars (\$100.00)** per item, pursuant to this Chapter.

(P) Shall check all merchandise received against all invoices and billed amounts for certification of payment in his departments.

(Q) Shall possess sufficient expertise so as to be capable of understanding and interpreting engineering plans for the design, construction, maintenance and operation of the utility systems, including distribution and metering techniques.

(R) Shall be familiar with all utility distribution networks as well as the continuance of the current high level of services.

(S) Shall be responsible for formulating, implementing and reviewing regular annual maintenance programs for the City.

(T) Shall provide for the continual training of utility and street personnel through seminars, conferences, literature and "on-the-job" training.

(U) Shall be responsible for complying with all State and Federal regulations for all phases of the utility and street departments and the swimming pool.

(V) Shall be responsible for the planning operation and maintenance of service provided by the utility departments.

(W) Shall determine, recommend and implement all items for the improvement of the utility operations and customer services to the water, sewer and street committees, City Council and Mayor.

1-2-107 - 1-2-109 RESERVED.

DIVISION X - CITY COLLECTOR

1-2-110 **APPOINTMENT.** There is hereby created the position of City Collector who shall be appointed by the Mayor, by and with the advice and consent of the City Council to serve for a **four (4) year** term, commencing on the **first (1st) Monday** in May following the election of the City Clerk and terminating on the last Sunday in May following the election of the City Clerk, or until such time as he is removed for just cause by the Mayor, whichever occurs first.

1-2-111 **DUTIES.** The City Collector shall be responsible for the following duties:

(A) Keep accurate financial records of all accounts necessitated by the Collector's duties.

(B) Prepare the City payroll for all City employees and officers. The Collector shall also prepare quarterly Social Security reports and quarterly withholding tax reports and at the end of the year, prepare all W-2 forms as required by the Federal and/or State governments for all employees and officers of the City.

(C) To have office hours from **8:30 A.M.** until **11:30 A.M.** and from **12:30 P.M.** until **4:30 P.M.** in the City Hall, Monday through Friday of each week, except on holidays. **(Ord. No. 2019-09; 12-05-19)**

(D) Coordinate the preparation of the annual State of Illinois report and independent City Audit with the City Treasurer and the City Auditor.

(E) Price meter books for all utilities and send out all statements as required by this Code or ordinances to the users of the City's utility services.

(F) Send letters to all delinquent utility customers and terminate service if not paid as required by this Code and/or City ordinances.

(G) Collect all City utility funds and City funds except those required to be collected by the City Clerk, if any.

(H) Deposit all monies received to the credit of the City in accounts as directed by the City Council.

(I) Perform all supplemental duties required by law and all other duties imposed by prior City Codes, ordinances and amendments thereto. Any codes, ordinances and amendments thereto in conflict with this Code are hereby repealed.

(J) Keep all City employee time records.

(K) All of the City Collector's warrants, books, vouchers and papers pertaining to his office may be examined at any reasonable time by the Mayor, City Clerk and any member of the City Council.

1-2-112 **REPORT.** The City Collector, when required by the City Council or by this Code, shall make a written report to the City Council or any officer designated by the City Council of all money collected by him, the account whereon collected or any other official matter.

1-2-113 **SALARY OF COLLECTOR.** The City Collector's salary shall be set each year by the City Council with the approval of the Mayor on the **first (1st) Monday of May** and his salary shall be paid from the utility departments in a pro rata manner as determined from time to time by the City Council.

DIVISION XI – DISASTER RECOVERY ADMINISTRATOR

1-2-114 **CREATION.** The position of the Disaster Recovery Administrator for the City of Elmwood, in Peoria County, Illinois is hereby created.

1-2-115 **PROCEDURE FOR APPOINTMENT.** The Mayor with the advice and consent of the City Council shall have authority to appoint the Disaster Recovery Administrator.

1-2-116 **DUTIES.** The Disaster Recovery Administrator shall have the following duties and responsibilities:

- (A) Coordinate the disaster recovery with all businesses and property owners, public agencies, charities and private and social organizations;
- (B) Monitor and approve plans and construction consistent with the recovery plan developed and approved for the City;
- (C) Secure grants and funds to aid in the recovery;
- (D) Appoint such persons as necessary to serve on a disaster recovery committee as the Administrator deems necessary; and,
- (E) To have such other and further duties as may be assigned to the Administrator by the Mayor or the City Council.

(Ord. No. 2010-6; 06-11-10)

ARTICLE III - SALARIES

1-3-1 SALARIES OF CITY OFFICIALS.

- (A) **Mayor.** The Mayor shall receive a salary of **Five Thousand Dollars (\$5,000.00)** per year.
- (B) **Clerk.** The City Clerk shall receive a salary of **Three Thousand Dollars (\$3,000.00)** per year.
- (C) **Treasurer.** The City Treasurer shall receive a salary of **Four Thousand Dollars (\$4,000.00)** per year.
- (D) **Aldermen.** Each Alderman shall receive a salary of **Three Thousand Dollars (\$3,000.00)** per year.
- (E) **Attorney.** The Attorney shall be paid a retainer in the amount of **One Hundred Dollars (\$100.00)**, plus fees as provided in **Section 1-2-88.**
(Ord. No. 2016-10A; 08-02-16)

1-3-2 SALARIES REGULATION.

- (A) Elected. No salary or compensation of any elected municipal officer who is elected for a definite term of office shall be increased or diminished during such term.
- (B) Appointed. No salary or compensation of any appointed official who is appointed for a definite term of office shall be decreased during such term, but may be increased.

(See 65 ILCS Sec. 5/3.1-50-5 and 5/3.1-50-10)

EDITOR'S NOTE – FIXING SALARIES: The corporate authorities of a municipality may fix the salaries of all municipal officers and employees in the annual appropriation or budget ordinance. They may fix the salary of all officers who hold elective office for a definite term in an ordinance other than the appropriation or budget ordinance. The salaries that are fixed in the annual appropriation ordinance shall neither be increased nor diminished during the fiscal year for which the appropriation is made. The salaries that are fixed by ordinance for those officers 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 fixed.

ARTICLE IV - WARDS

1-4-1 **CITY WARDS ESTABLISHED.** The **City of Elmwood** shall be divided into **three (3) wards**, the boundaries thereof being hereby fixed and established as follows:

(A) **Ward Number One.** Ward Number One shall include all that territory within the corporate limits of the City of Elmwood lying South of Main Street, except for that part South of Main Street which lies West of Knox Street, and shall include all that territory within the corporate boundaries of the City of Elmwood lying North of Main Street and South of Ash Street between the Eastern line of Magnolia Street and the Western line of Laurel Street.

(B) **Ward Number Two.** Ward Number Two shall include all that territory within the corporate limits of the City of Elmwood lying North of Main Street and West of Magnolia Street and all of that territory within the corporate boundaries of the City of Elmwood lying South of Main Street and West of Knox Street.

(C) **Ward Number Three.** Ward Number Three shall include all that territory within the corporate limits of the City of Elmwood lying North of Main Street and East of Magnolia Street, except for that part lying South of Ash Street between the Eastern line of Magnolia Street and Western line of Laurel Street.

(Ord. No. 2015-05; 05-19-15)

CHAPTER 3

ANIMALS

ARTICLE I – GENERAL REGULATIONS

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

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

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

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

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

"ATTRACTANT" means any substance which could reasonably be expected to attract a wild animal or does attract a wild animal, including but not limited to, garbage, food products, pet food, feed, grain, or salt. **(Ord. No. 2011-15; 06-07-11)**

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

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

"DANGEROUS DOG". "Dangerous dog" means any individual dog which when either unmuzzled, unleashed, or unattended by its owner, or a member of its owner's family, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon streets, sidewalks, or any public grounds or places. **(See 510 ILCS 5/15(2))**

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

"DOG". "Dog" means all members of the family Canidae or an animal in the family or nature or having qualities of a dog (e.g., wolves, jackals, and foxes). **(See 510 ILCS 5.211)**

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

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

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

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

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

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

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

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

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

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

"UNOWNED STRAY DOG". "Unowned stray dog" means any dog not on the premises of the owner or keeper or under control by leash or other recognized control methods, and which does not, at that time and place, bear a current rabies inoculation tag issued pursuant to the provisions of this Code, by means of which, by reference to records of current registration certificates, the Administrator or his deputies or assistants may determine the name and

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

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

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

3-1-3 INJURY TO PROPERTY.

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

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

3-1-4 MANNER OF KEEPING.

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

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

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

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

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

3-1-6 CRUELTY TO ANIMALS PROHIBITED.

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

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

3-1-7 EXHIBITING WILD OR VICIOUS ANIMALS.

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

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

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

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

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

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

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

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

(B) **Limitation; Exception.**

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

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

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

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

(A) **Certain Prohibitions.** Except as otherwise provided in this Chapter no person shall keep within the City any cattle, cows, horses, sheep, swine, goats, chickens, ducks, turkeys, geese, rabbits, or other livestock.

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

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

3-1-11 **DOGS AND CATS IN PUBLIC PLACES.** Except as otherwise provided in this Code, no dog or cat shall be allowed in any parks, beaches or any swimming areas open to the public. **(See Section 28-1-7)**

3-1-12 **FEEDING OF WILD ANIMALS PROHIBITED.**

(A) It shall be unlawful for any person to feed or in any manner provide an attractant to any wild animal.

(B) It shall be unlawful for any person to leave, store or maintain any attractant in a manner, area or location accessible to wild animals.

(C) Nothing in this Section shall apply to the feeding of songbirds and other backyard birds or squirrels, or to the legal owner of a wild animal which wild animal is kept in compliance with state and local laws.

(Ord. No. 2011-15; 06-07-11)

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

ARTICLE II - DOGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-2-9 NOTICE AND CITATION TO OWNER OR KEEPER OF IMPOUNDMENT.

In case of impounding and where the owner or keeper of such dog is disclosed by any tax or license tag worn by it or is otherwise known to the officers impounding the same, the designated official shall make reasonable attempts to contact the owner, informing him of the impounding of his dog and shall cite the owner or keeper of such dog to answer charges of violation of this Chapter.

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

3-2-11 IMPOUNDMENT OF DOGS WHICH HAVE BITTEN PERSONS.

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

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

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

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

In case such dog has not been inoculated against rabies for the current year, such owner shall also advance the fee required to have such dog inoculated by a duly authorized licensed veterinarian as he shall elect and the poundkeeper shall forthwith cause the dog to be duly inoculated against rabies. No dog shall be released without having been inoculated against rabies for the current calendar year or in accordance with the required charges, the dog shall thereupon be released to the owner or keeper.

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

3-2-15 DOGS CONSIDERED NUISANCES.

(A) **Dogs Considered Nuisances.** No person owning, possessing, keeping or otherwise harboring a dog shall permit said dog to become a nuisance. A dog, other than a dog trained for law enforcement in the performance of its duty, shall be considered a nuisance if said dog:

- (1) Destroys, damages or, in any manner, injures any plant, shrub or other property not on the premises of its owner or keeper;
- (2) Causes unsanitary, dangerous or unreasonably offensive conditions;
- (3) Continually causes a disturbance to the quiet of any person or neighborhood by excessive barking, howling, or other noisemaking;
- (4) Chases vehicles;
- (5) Chases, molests, attacks, bites, interferes with or physically intimidates any person while on or off the premises of the owner or keeper;
- (6) Chases, molests, attacks, bites or interferes with other animals while off the premises of the owner or keeper.

(B) **Disposition of Dogs Deemed Nuisances.** Any dog which is deemed to be a nuisance, as set forth in paragraph (A) above, shall be taken up and impounded and may be redeemed or disposed of in the manner provided for under this Code.

3-2-16 FEMALE DOG WITH OTHER DOGS. No person in control or possession of a female dog or permitting the same to remain upon his or her premises, shall permit any such female dog, while in heat, to consort with any other dog or dogs in an indecent manner in any place of public view, whether upon his own or any other premises.

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

ARTICLE III - VICIOUS AND DANGEROUS DOGS

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

(A) **"Vicious dog"** means:

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

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

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

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

(C) **"Enclosure"** means a fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures 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.

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

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

- (1) that an Animal Control Warden, or a law enforcement officer has conducted an investigation and made a finding in writing that the dog is a vicious dog as defined in paragraph (1) of Subsection (A)

- and, based on that finding, the Administrator or an Animal Control Warden has declared in writing that the dog is a vicious dog or
- (2) that the circuit court has found the dog to be a vicious dog as defined in paragraph (1) of Subsection (A) and has entered an order based on that finding.

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

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

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

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

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

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

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

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

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

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

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

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

(See also 510 ILCS Sec. 5/24)

CHAPTER 4

BICYCLE CODE

ARTICLE I – GENERAL REGULATIONS

4-1-1 **REGISTRATION.** All bicycles owned by residents of the City and operated in the City shall be registered with the City Clerk’s Office.

4-1-2 **PURCHASE OR TRANSFER.** All bicycles purchased by or transferred to residents of the City and operated in the City shall be registered with the City within **thirty (30) days** of such purchase or transfer.

4-1-3 **NOTIFICATION OF SALE.** When any registered bicycle is transferred to a new owner, the registered owner of such bicycle shall notify the City Clerk of such transfer. If the bicycle is transferred to another resident of the City, the new owner must register his bicycle with the City in the time prescribed by **Section 4-1-2** of this Chapter. If the bicycle is transferred to a new owner who is not a resident of the City the registration shall be cancelled and the license plate recalled.

4-1-4 **SAFETY TEST.** As a requirement for such registration, all bicycles must pass a safety test and comply with all of the rules and regulations of the State of Illinois regarding bicycle equipment and condition.

4-1-5 **LICENSE PLATE PROVIDED.** The City may provide a Bicycle Registration Card, a City License Plate, an Illinois Rules of the Road Book and a voluntary lecture and discussion on bicycle safety for all residents of the City who apply for registration of their bicycles.

4-1-6 **DISPLAY OF LICENSE PLATE.** The license plate, duly issued by the City shall be exhibited on the registered bicycle at all times.

4-1-7 **POLICE DEPARTMENT.** The Police Department shall conduct the bicycle registration program and the enforcement of this Code. The Police Department shall be available to register the bicycles, conduct the operation of the bicycle program and shall notify the residents of the City of their schedule for the initial registration program by publication.

(Ord. No. 72-5; 08-01-72)

CHAPTER 5

BOARDS

ARTICLE I – PARK AND RECREATION BOARD

5-1-1 **BOARD FINANCES.** The Mayor, with the approval of a majority of the Aldermen is authorized, but not required, to direct the City Treasurer to turn over all tax funds received by the City each year for West Park Playground for recreation and for park purposes to a Board of **five (5) person** appointed as hereinafter set forth, with instructions to use the tax funds in a legal and judicious manner for the best interests of all the City Parks. The Board shall prepare an annual report of its receipts and expenditures, in writing, at the last regular Council meeting prior to the end of each fiscal year, for the approval by the Council.

5-1-2 **APPOINTMENT OF BOARD.** The Board, for the above purpose, shall be appointed annually, within **ten (10) days** after the beginning of each fiscal year; and the Mayor, with the advice and consent of the City Council shall appoint the Board members. The Board shall consist of **four (4) citizens** and at all times, there shall be at least **one (1)** City Council member appointed to the Board.

(Ord. Nos. 214; 07-03-51 and 250; 09-11-57)

CHAPTER 6

BUILDING REGULATIONS

ARTICLE I – BUILDING CODE

6-1-1 BUILDING CODE ADOPTION. The “2006 International Building Code”, as published by the International Code Council, Inc. (the “Code”), is hereby adopted as the Building Code of the City, for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with the additions, insertions, deletions and changes set forth in **Section 6-1-2** below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

6-1-2 AMENDMENTS. The following sections of the Code are hereby revised as follows:

(A) Section 101.1, *Title*, is hereby amended to read as follows: Section 101.1, *Title*. These regulations shall be known as the Building Code of the City of Elmwood, hereinafter referred to as this Code.

(B) Section 101.4.1, *Electrical*, is hereby amended to read as follows: Section 101.4.1, *Electrical*. The provisions of the currently adopted National Electrical Code shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(C) Section 101.4.4, *Plumbing*, is hereby amended to read as follows: Section 101.4.4, *Plumbing*. The provisions of the currently adopted State of Illinois Plumbing Code shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, where connected to a water or sewage system.

(D) Section 112, *Means of Appeal*, is hereby amended to read as follows: Section 112.1, *Construction Commission*. The owner of a building or structure may appeal to the City’s construction commission (the “Construction Commission”), as established by the City of Elmwood Ordinance No. 2013-13 (the Construction Commission Ordinance”), from any decision of the Code Official, as set forth in the Construction Commission Ordinance.

(E) Section 112.2, *Limitations on Authority*, is hereby amended to read as follows: Section 112.2, *Limitations on Authority*. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply or an equally good or better form of construction is proposed. The Construction Commission shall have no authority to waive requirements of this Code.

(F) Section 112.3, *Qualifications*, is hereby amended to read as follows: Section 112.3, *Qualifications*. The Construction Commission shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction, as set forth in the Construction Commission Ordinance, and are not employees of the jurisdiction.

(G) Section 113.4, *Violation Penalties*, shall read as follows: Section 113.4, *Violation Penalties*. Any person who violates a provision of this Code or fails to comply with any

other requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the Building Official, or a permit or certificate issued under the provisions of this Code, shall be guilty of a violation punishable by a fine of not less than **One Hundred Dollars (\$100.00)** or more than **Five Hundred Dollars (\$500.00)**. Each day that a violation continues shall be deemed a separate offense.

(H) Section 114.2, *Issuance*, shall read as follows: Section 114.2, *Issuance*. The stop work order shall be in writing and shall be given to the owner of the property involved or to the owner's agent or to the person doing the work. Upon issuance of the stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. The work order shall conform to Section 4 of City of Elmwood Ordinance No. 2012-13.

(I) Section 114.3, *Unlawful Continuance*, shall read as follows: Section 114.3, *Unlawful Continuance*. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** or more than **Five Hundred Dollars (\$500.00)**. Each day that such work continues shall be considered a separate violation.

(J) Section 109.3, *Stair treads and risers*, shall read as follows: Section 109.3, *Stair treads and risers, Exception No. 5*. In occupancies in Group R-3 as applicable in Section 101.2 within dwelling units in occupancies in Group R-2, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, the maximum riser heights shall be **eight and one-fourth (8 1/4) inches (210 mm)** and the minimum tread depth shall be **nine (9) inches (229 mm)**. A nosing not less than **three-fourths (0.75) inch (19.1 mm)** but not more than **one and one-fourth (1.25) inches (32 mm)** shall be provided on stairways with solid risers where the tread depth is less than **eleven (11) inches (279 mm)**.

(K) Chapter 11, *Accessibility*, is hereby deleted in its entirety and the following inserted in lieu thereof: The provisions of the Illinois Accessibility Code shall control the design and construction of facilities for accessibility to physically disabled persons. Buildings and facilities shall be designed and constructed to be accessible in accordance with the Illinois Accessibility Code.

(L) Chapter 27, *Electrical Systems*, is hereby deleted in its entirety and the following inserted in lieu thereof: Chapter 27, *Electrical System*. The current National Electrical Code adopted by the City of Elmwood shall be followed for all design and installation of electrical systems, alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(M) Chapter 29, *Plumbing Systems*, is hereby deleted in its entirety and the following inserted in lieu thereof: Chapter 29, *Plumbing Systems*. The current State of Illinois Plumbing Code shall be followed for all design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supply and storm water and sewage disposal in buildings.

6-1-3 FEES. Fees for the issuance of building permits shall be as set forth on the fee schedule attached hereto.

6-1-4 CERTIFICATES OF OCCUPANCY.

(A) **Issuance; Contents.** The Code Official shall within **twenty (20) days** after an application has been filed by the owner or general contractor, issue a certificate of occupancy, if after inspection it is found that the building for which the certificate was requested substantially complies with the provisions of this Code and all other requirements of law or Code applicable thereto. Such certificate of occupancy shall show the use group, in accordance with the building code, the type of construction in accordance with the building code, the name of the business, number of off-street parking spaces, and any special conditions of the building permit.

(B) **Issuance of Temporary Certificates.** Upon written request, the Code Official may issue a temporary certificate of occupancy for the use of any building or structure prior to the completion and occupancy of the entire building or structure, provided that such portion or portions shall be occupied safely prior to full completion of the structure without endangering life or public welfare.

(C) **Change of Occupancy.** The use or occupancy of any building shall not be changed until a certificate of occupancy permitting the new use or occupancy is issued by the Code Official. No such certificate of occupancy shall be issued unless the building substantially complies with the requirements of this Code.

(D) **Notice by Code Official Form; Service.** Whenever the Code Official of the City or his/her delegate determines that a building or structure does not comply with the requirements set forth in this Code, the Code Official or his/her delegate shall be authorized and empowered to issue to any occupancy, general contractor, or owner of such building, a notice of violations of this Code in the following manner and form:

- (1) The notice shall be in writing.
- (2) The notice shall set forth the alleged violation of this Code.
- (3) The notice shall describe the premises where the violations are alleged to exist or to have been committed by street address or by legal description of record in the records of the recorder of deeds of the County.
- (4) The notice shall be served upon the occupant, general contractor, owner or agent of the owner by:
 - (a) Personal delivery of a copy of the complaint addressed to such occupant, owner, general contractor or agent at his last known address, service thereof certified to have been made by the person making the service; or
 - (b) By certified or registered mail, return receipt requested, addressed to the last known place of occupancy of the occupant, general contractor, owner or agent of the owner; or
 - (c) Notice as provided in an act relating to the posting of notices of violations of a county or city, village or incorporated town building code, approved August 6, 1963 (**50 ILCS 810/1, 810/2**).

(E) **Occupation of Building Without Certificate Prohibited; Penalty.** No building shall be occupied in any part thereof unless or until a certificate of occupancy has been issued by the Code Official. The use or occupancy of any building without first receiving a certificate of occupancy or temporary certificate of occupancy is prohibited. Any owner occupant or general contractor found guilty of violating or failing to comply with this paragraph shall be punished by a fine of not less than **Twenty-Five Dollars (\$25.00)** or more than **Five Hundred Dollars (\$500.00)**. Each day a violation of this Section exists shall constitute a separate offense.

(Ord. No. 2012-14; 08-28-12)

ARTICLE II – FIRE CODE

6-2-1 FIRE CODE ADOPTION. The “2006 International Fire Code”, as published by the International Code Council, Inc. (the “Code”), is hereby adopted as the Fire Code of the City, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with the additions, insertions, deletions and changes set forth in **Section 6-2-2** below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

6-2-2 AMENDMENTS. The following sections of the Code are hereby revised as follows:

(A) Section 102.6, *Referenced codes and standards*, shall be amended to read as follows: Section 102.6, *Referenced codes and standards*. The codes and standards referenced in this Code shall be those that are listed in Chapter 45 and such codes and standards shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between the provisions of this Code and the referenced standards the more restrictive provision shall apply.

(B) Section 103.1, *General*, shall be amended to read as follows: Section 103.1, *General*. The division of fire prevention is established within the jurisdiction under direction of the fire marshal. The function of the division shall be the implementation, administration and enforcement of the provisions of this Code.

(C) Section 104.1, *General*, shall be amended to read as follows: Section 104.1, *General*. The fire marshal or designee is hereby authorized to enforce the provisions of this Code and shall have the authority to render interpretations of this Code, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this Code and shall not have the effect of waiving requirements specifically provided for in this Code.

(D) Section 105.6.31, *Open burning*, shall be amended to read as follows: Section 105.6.31, *Open burning*. An operational permit is required for the kindling or maintaining of any open fire, recreational fire, or fire on a public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.

(E) Section 508.5.1, *Fire hydrant locations*, shall be amended to read as follows: Section 508.5.1, *Fire hydrant locations*. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than **three hundred (300) feet** from a hydrant on a fire apparatus access road as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the Code Official.

Exceptions:

- (1) For one- and two-family occupancies, the distance requirement is **five hundred (500) feet**.

(F) Section 508.5.5, *Clear space around hydrants*, shall be amended to read as follows: Section 508.5.5, *Clear space around hydrants*. A four-foot clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved.

(G) Section 804.1.10, *Restricted occupancies pertaining to natural cut trees*, shall be amended to read as follows: Section 804.1.1, *Restricted occupancies pertaining to natural cut trees*. Natural cut trees shall be prohibited in Group A, E, I-1, I-2, I-3, I-4, M, R-1, R-2 and R-4 Occupancies.

Exceptions: Exceptions shall be deleted.

(H) Section 901.4, *Installation regarding fire sprinkler systems*, shall be amended to read as follows: Section 901.4, *Installation regarding fire sprinkler systems*. Fire protection systems shall be maintained in accordance with the original installation standards for that system, except when they have been approved as non-required, discontinued, or out of service by the fire marshal or designee. Required fire protection systems shall be extended, altered, or augmented as necessary to maintain and continue protection whenever the building is altered, remodeled or added to. This requirement shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make repairs, tests, alterations or additions. The fire marshal or designee shall be notified before disconnection and interruption of protection and when tests repairs, alterations, or additions are started and upon completion. The fire marshal shall be advised of extent of and reason for such work. Alterations to fire protection systems shall be done in accordance with applicable standards.

(I) Section 901.4.2, *Non-required fire protection systems*, shall be amended to read as follows: Section 901.4.2, *Non-required fire protection systems*. All non-required fire protection systems shall be maintained in accordance with the original installation standard for that system, unless the fire marshal or designee approves discontinuation of the equipment. All discontinued equipment and devices, such as pull stations, nozzles, detectors, sprinklers, sensors and hose connections shall be removed.

Exceptions: The fire marshal or designee may allow discontinued equipment to remain in place provided that the spirit and intent of the law is observed and the public health, safety and welfare are ensured.

(J) Section 3809.12 through 3809.15 are hereby deleted in their entirety and replaced by the following: Section 3809.12, *Location of storage outside of buildings*. Storage outside of buildings, for containers awaiting use, resale or part of a cylinder exchange program shall be located not less than **twenty (20) feet (6,096 mm)** from openings into buildings, **twenty (20) feet (6,096 mm)** from any motor vehicle fuel dispenser and **ten (10) feet (3,048 mm)** from any combustible material and in accordance with Table 3809.12.

TABLE 3809.12: SEPARATION OF EXPOSURES OF CONTAINERS AWAITING USE, RESALE OR EXCHANGE OUTSIDE OF BUILDINGS FROM EXPOSURES

QUALITY OF LP-GAS STORED	DISTANCES TO A BUILDING OR GROUP OF BUILDINGS, PUBLIC WAY OR LOT LINE OF PROPERTY THAT CAN BE BUILT UPON (feet)
500 pounds or less	0
501 to 2,500 pounds	10
2,501 to 6,000 pounds	15
6,001 to 10,000 pounds	20
Over 10,000 pounds	25

For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg

a. Containers are allowed to be located a lesser distance.

Section 3809.13, *Protection of containers*. Containers shall be stored within a suitable enclosure or otherwise protected against tampering. Vehicular protection shall be provided as required by the fire code officials.

Section 3809.14, *Separation from means of egress for containers located outside of buildings*. Containers located outside of buildings shall not be located within **twenty (20) feet (5,096 mm)** of any exit access doors, exits, stairways or in areas normally used, or intended to be used, as a means of egress.

Section 3809.15, *Alternative location and protection of storage*. Where the provisions of Sections 3809.12 and 3809.13 are impractical at construction sites, or at buildings or structures undergoing major renovation or repairs, the storage of containers shall be as required by the fire code official.

6-2-3 DEFINITIONS. The following words, terms and phrases, when used in the fire prevention codes adopted under this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) **Acute hazardous waste** means a waste listed in 40 CFR 261.31, 261.32 and 261.33(e), as amended.

(B) **Chief** means the fire marshal or his delegate.

(C) **Commercial** means a business which is engaged in material-handling, wholesale operations or sales, or retail sale.

(D) **Extremely hazardous substance** means a substance listed in the appendices to 40 CFR 355.

(E) **Facility** means any land, building, equipment, structure, stationary item, or, adjacent sites owned, leased, operated by the same business (contained within the same address) will be considered a single permissible site. Any of the above items located at sites with separate addresses (even though they have the same owner) will be considered separate permissible sites.

(F) **Handles or Handling** means uses or using of, disposes or disposing of, generates or generating of, processes or processing of, treats or treating of, or stores or storing of.

(G) **Hazard category** means the five physical or health classes defined in 40 CFR 370.2.

(H) **Hazard class** means the class of hazardous materials authorized for transportation by 49 CFR subchapter C.

(I) **Hazardous chemical** means any hazardous chemical as defined under 29 CFR 1910.12000(c).

(J) **Hazardous material** means a material subject to 49 CFR subchapter C, including those:

- (1) Defined at 49 CFR 171.8 or 171.11 as amended; or
- (2) Listed in the hazardous materials table at 49 CFR 172.101 or 172.102, as amended, for any transportation mode; and
- (3) Any other substance determined by the fire department, state OSHA or federal OSHA to pose a significant health and safety hazard.

The term "hazardous materials" does not include food, drugs, alcoholic beverages, cosmetics, tobacco or tobacco products intended for personal consumption.

(K) **Hazardous waste** means waste as defined in 40 CFR 261, as amended.

(L) **Industrial** means a business engaged in janitorial, maintenance, engineering, building or other types of service operations.

(M) **Manufacturer or Manufacturing** means a business engaged in the production of materials or market items.

(N) **Municipality** means the City.

(O) **Person** means the owner, operator or manager of any entity or any other individual in charge of handling hazardous materials, hazardous chemicals or hazardous wastes and includes but is not limited to individuals, trusts, corporations (including governmental corporations), partnerships, joint ventures or a state or political subdivision thereof.

(P) **Public event** is described as an organized gathering of **twenty (20)** or more people, accessible to the general public, for purposes such as civic, social or religious functions, recreation or food or drink consumption.

(Q) **Release** means any spilling, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of a hazardous material into or on any land, air, water, well, stream, sewer or pipe so that such hazardous material or any constituent thereof may enter the environment.

(R) **Remedial action** means any action consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous material into the environment, to prevent or minimize the release of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous materials or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

(S) **Removal** means the cleanup or removal of released hazardous materials from the environment, such actions as may be necessary or appropriate to monitor, assess, and evaluate the release or threat of release of hazardous materials, the disposal of removed material, or the taking of such action as may be necessary to prevent, minimize, or mitigate

damage to the public health or welfare or the environment. The term includes, but is not limited to, security fencing, provision of alternative water supplies, and temporary evacuation of threatened individuals.

(T) **Response** means any removal or remedial action.

(U) **Satellite** means any portable or mobile container including tanks, trailers, sheds or similar equipment or structures in which any hazardous material is handled, and which is temporarily located at a fixed site owned or leased by another, including a public way in the City of Elmwood.

(V) **Threshold planning quantity** means the amount of an extremely hazardous substance as defined in 40 CFR 355, as amended.

(W) **Tier II inventory form** means the hazardous chemical inventory forms set forth in 40 CFR 370.41 as amended.

(X) **Transshipment facility** means any land, building, equipment, structure, stationary item or combination thereof that is located on a single site or on contiguous or adjacent sites owned, leased, operated or otherwise controlled by the same person, whose principal business consists of the handling of materials, including the handling of hazardous materials or hazardous wastes while such material remains in the stream of interstate, intrastate or international commerce.

(Ord. No. 2012-15; 08-28-12)

ARTICLE III – RESIDENTIAL CODE

6-3-1 **INTERNATIONAL RESIDENTIAL CODE.** The “2006 International Residential Code for One- and Two-Family Dwellings”, as published by the International Code Council, Inc. (the “Code”), is hereby adopted as the Residential Code of the City, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with any additions, insertions, deletions and changes set forth in **Section 6-3-2** below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

6-3-2 **AMENDMENTS.** The following sections of the Code are hereby revised as follows:

(A) Section R101.1, *Title*, shall read as follows: Section R101.1, *Title*. These regulations shall be known as the Residential Code for One- and Two-Family Dwellings of the City of Elmwood and shall be cited as such and will be referred to herein as “this Code”.

(B) Section R102.5, *Appendices*, shall read as follows: Section R102.5, *Appendices*. Appendix G. Swimming Pools, Spas and hot tubs is hereby adopted.

(C) Section R112, *Board of Appeals*, is hereby amended to read as follows: Section 112.1, *Construction Commission*. The owner of a building or structure may appeal to the construction commission as established in City of Elmwood Ordinance No. 2012-13 from any decision of the Code Official as set forth in such Code.

(D) Section 112.2, *Limitations on authority*, is hereby amended to read as follows: Section 112.2, *Limitations on authority*. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply or an equally good or better form of construction is proposed. The Board shall have no authority to waive requirements of this Code.

(E) Section 112.2.1, *Determination of substantial improvement in areas prone to flooding*, is hereby deleted.

(F) Section 112.3, *Qualifications*, is hereby added to read as follows: Section 112.3, *Qualifications*. The Construction Commission shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

(G) Section R112.3, *Qualifications*, is hereby deleted.

(H) Section R112.4, *Administration*, is hereby deleted.

(I) Section R301.2, Table R301.2(1), *Climatic criteria*, shall read as follows: Section R301.2, Table R301.2(1), *Climatic and Geographic Design criteria*.

Ground snow load	20 psf=P _g
Wind speed (mph)	90 mph
Seismic	Design Category B
Weathering	Severe
Frost line depth	36 inches
Termite	Moderate to heavy
Decay	Slight to moderate
Winter design temperature	-10 degrees
Ice barrier underlayment required	Yes
Flood hazards	(a) March 20, 1979 (b) February 1, 1980
Air freezing index	>1500-2000
Mean annual temp	50

(J) Section 311.5.3, *Treads and risers*, shall read as follows: Section 311.5.3.1, *Riser height*. The maximum riser height shall be **eight and one-fourth (8.25) inches**. The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stair shall not exceed the smallest by more than **three-eighths (3/8) inch**.

(K) Section 311.5.3.2, *Tread depth*. The minimum tread depth shall be **nine (9) inches**. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than **three-eighths (3/8) inch**. Winder treads shall have a minimum tread depth of **nine (9) inches** measured as above a point **twelve (12) inches** from the side where the treads are narrower. Winder treads shall have a minimum tread depth of **six (6) inches** at any point. Within any flight of stairs, the greatest winder tread depth at the **twelve (12) inch** walk line shall not exceed the smallest by more than **three-eighths (3/8) inch**.

(L) Section M1307.6, *Protection of equipment*, the following section is hereby added. Section M1307.6, *Protection of equipment*. All equipment placed in a basement or similar location that would be subject to dampness shall be raised and/or protected from damage by a minimum **one (1) inch** high concrete base, **one (1) inch** minimum galvanized steel support frame, or similar method approved by the Code Official.

(M) Part VII, *Plumbing*: Chapters 25 through 32 are hereby deleted in their entirety and the following inserted in lieu thereof: Part VII, *Plumbing*. The current State of Illinois Plumbing Code shall be followed for all design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supply and storm water and sewage disposal in buildings.

The City Clerk shall keep a copy of such code on file and available for public use, inspection and examination.

(N) Chapter 11, *Energy Conservation*, is amended to read as follows: The current State of Illinois Energy Code shall be followed.

The City Clerk shall keep a copy of such code on file and available for public use, inspection and examination.

(Ord. No. 2012-16; 08-28-12)

ARTICLE IV – MECHANICAL CODE

6-4-1 **INTERNATIONAL MECHANICAL CODE.** The “2006 International Mechanical Code”, as published by the International Code Council, Inc. (the “Code”), is hereby adopted as the Mechanical Code of the City, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with any additions, insertions, deletions and changes set forth in **Section 6-4-2** below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

6-4-2 **AMENDMENTS.** The following sections of the Code are hereby revised as follows:

(A) Section 101.1, *Title*, shall read as follows: Section 101.1, *Title*. These regulations shall be known as the Mechanical Code of the City of Elmwood, hereinafter referred to herein as “this Code”.

(B) Section 106.5.2, *Fee Schedule*, is deleted in its entirety.

(C) Section 106.5.3, *Fee refunds*, is deleted in its entirety.

(D) Section 109, *Means of Appeal*, is hereby amended to read as follows: Section 109.1, *Construction Commission*. The owner of a building or structure may appeal to the Construction Commission as established in City of Elmwood Ordinance No. 2012-13, from any decision of the Code Official as set forth in such Code.

(E) Section 109.1.1 through Section 109.7, are hereby deleted in their entirety.

(F) Section 301.74, *Electrical*, is hereby amended to read as follows: Section 301.7, *Electrical*. Electrical wiring, controls and connections to equipment and appliances regulated by this Code shall be in accordance with the current National Electrical Code.

(G) Section 303.0, *Equipment and Appliance Location*, is hereby amended by adding the following language: Section 303.7.1, *Protection of equipment*. All equipment placed in a basement or similar location that would be subject to dampness shall be raised and/or protected from damage by minimum **one (1) inch** high concrete base, **one (1) inch** minimum galvanized steel support frame, or similar method approved by the Code Official.

(H) Section 306.5, is hereby deleted in its entirety.

(Ord. No. 2012-17; 08-28-12)

ARTICLE V – FUEL GAS CODE

6-5-1 FUEL GAS CODE ADOPTION. “The 2006 International Fuel Gas Code”, as published by the International Code Council, Inc. (the “Code”), is hereby adopted as the Fuel Gas Code of the City, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with the additions, insertions, deletions and changes set forth in **Section 6-5-2** below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

6-5-2 AMENDMENTS. The following sections of the Code are hereby revised as follows:

(A) Section 106.3.1, *Construction documents*, shall read as follows: Section 106.3.1, *Construction documents*. The Code Official shall require drawings and details of all mechanical and electrical work as he/she deems necessary. The Illinois Architectural Act and the Illinois Professional Engineering Act shall be the guidelines for minimum requirements.

(B) Section 101, *Title*, shall read as follows: Section 101.1, *Title*. These regulations shall be known as the Fuel Gas Code of the City of Elmwood hereinafter referred to as “this Code”.

(C) Section 106.5.2, *Fee Schedule*, is deleted in its entirety.

(D) Section 106.5.3, *Fee refunds*, is hereby deleted in its entirety.

(E) Section 109, *Means of Appeal*, is hereby amended to read as follows: Section 109.1, *Construction Commission*. The owner of a building or structure may appeal to the Construction Commission as established in City of Elmwood Ordinance No. 2012-13 from any decision of the Code Official as set forth in such Code.

(F) Section 109.2 through Section 109.7, are hereby deleted in their entirety.

(H) Section 309.2, *Connections*, is hereby amended to read as follows: Section 309.2, *Connections*. Electrical connections between equipment and the building wiring, including the grounding of equipment, shall conform to the current National Electrical Code.

(Ord. No. 2012-18; 08-28-12)

ARTICLE VI – PROPERTY MAINTENANCE CODE

6-6-1 **PROPERTY MAINTENANCE CODE ADOPTION.** “The 2006 International Property Maintenance Code”, as published by the International Code Council, Inc. (the “Code”), is hereby adopted as the Property Maintenance Code of the City, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with the additions, insertions, deletions and changes set forth in **Section 6-6-2** below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

6-6-2 **AMENDMENTS.** The following sections of the Code are hereby revised as follows:

(A) Section 101.1, *Title*, is amended to read as follows: Section 101.1, *Title*. This article shall be known as the Property Maintenance Code of the City of Elmwood hereinafter referred to as “this Code”.

(B) Section 103.1, 103.2, 103.3 and 103.5 are deleted in their entirety.

(C) Section 104.1, *General*, shall read: Section 104.1, *General*. This Code Official shall enforce all of the provisions of this Code except the Fire Marshal or his designee shall enforce Section 704.0 FIRE PROTECTION SYSTEMS.

(D) Section 106.3, *Prosecution of violation*, shall be deleted in its entirety.

(E) Section 106.4, *Violation penalties*, is hereby amended to read as follows: Section 106.4, *Violation penalties*. Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof shall, upon conviction thereof, be subject to a fine of not more than **Five Hundred Dollars (\$500.00)**. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(F) Section 107.5, *Transfer of ownership*, is hereby amended to read as follows: Section 107.5, *Transfer of ownership*. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provision of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility with condition for making the corrections or repairs required by such compliance order or notice of violation. This requirement shall not preclude any person from seeking a variance or an appeal pursuant to the other sections of this Code.

(G) Section 110.0, *Demolition*, shall be deleted in its entirety.

(H) Section 111.0, *Means of Appeal*, shall be deleted in its entirety.

(I) Section 201.3, *Terms defined in other codes*, shall read as follows: Section 201.3, *Terms defined in other codes*. Where terms are not defined in this Code and are defined in the International Buildings Code, International Fire Code, International Zoning Code, State of Illinois Plumbing Code, International Mechanical Code, International Existing Building

Code or the National Electric Code, such terms shall have the meanings ascribed to them as in those codes.

(J) Section 202, *General Definitions, Habitable space*, shall read: Section 202, *General Definitions, Habitable space*. Space in a residential structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

(K) Section 301.2, *Responsibility*, shall read: Section 301.2, *Responsibility*. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in Sections 307.0 and 308.0 and in sections 13-37 and 13-39 of the Property Maintenance Code of the City of Elmwood.

(L) Section 302.1, *Sanitation*, shall be deleted in its entirety.

(M) Section 302.7, *Accessory Structures*, shall read: Section 302.7, *Accessory Structures*. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair. They shall be free of insects and rodents. The exterior of each accessory structure shall be weather resistant. All fences on the other premises shall be constructed of manufactured metal fencing material, wood, masonry, or other inert material. Such fences shall be maintained by the owner. Wood materials shall be protected against decay. Wherever any required egress doorway from a building opens into a fenced area, there shall be a means of entrance and exit from the premises to the nearest public way.

(N) Section 304.5, *Foundation walls*, shall read: Section 304.5, *Foundation walls*. All foundation walls shall be maintained structurally safe and sound and free from open cracks and breaks in such a condition so as to prevent the entry of rodents.

(O) Section 304.12, *Handrails and guards*, shall read: Section 304.12, *Handrails and guards*. Except in single-family residential dwellings built prior to 1972, every exterior and interior flight of stairs having more than **four (4)** risers, and every open portion of a stair landing, balcony, porch, deck, ramp or other walking surface which is more than **thirty (30) inches (762 mm)** above the floor or grade below shall have guards. Handrails shall not be less than **thirty (30) inches (762 mm)** nor more than **forty-two (42) inches (1067 mm)** high, measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than **thirty (30) inches (762 mm)** high above the floor of the landing, balcony, porch, deck, ramp or other walking surface. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(P) Section 501.1.2, *Plumbing*, shall read: Section 501.1.2, *Plumbing*. Where any conflict exists between the Illinois State Plumbing Code and Property Maintenance Code the more stringent shall apply.

(Q) Section 602.4, *Occupiable work spaces*, shall read: Section 602.4, *Occupiable work spaces*. Indoor occupiable work spaces shall be supplied with heat during the period from September 15th to May 15th to maintain a temperature of not less than **sixty-five (65) degrees (18 degrees C.)** during the period the spaces are occupied.

Exceptions:

- (1) Processing, storage and operation areas that require cooling or special temperature conditions.
- (2) Areas in which persons are primarily engaged in vigorous physical activities.
- (3) Warehousing or similar facilities.

(R) Section 604.2, *Service*, shall read as follows: Section 604.2, *Service*. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

(Ord. No. 2012-19; 08-28-12)

ARTICLE VII – ELECTRICAL CODE

6-7-1 ELECTRICAL CODE ADOPTION. “The National Electrical Code (NFPA 70)”, current version, as published by the National Fire Protection Association (the “Code”), is hereby adopted as the Electrical Code of the City, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with the additions, insertions, deletions and changes set forth below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

(Ord. No. 2012-20; 08-28-12)

ARTICLE VIII – EXISTING BUILDING CODE

6-8-1 **EXISTING BUILDING CODE ADOPTION.** “The 2006 International Existing Building Code”, as published by the International Code Council, Inc. (the “Code”), is hereby adopted as the Existing Building Code of the City, for the control of buildings and structures as therein provided; and each and all of the regulations, provisions, penalties, conditions and terms of the Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Code, with the additions, insertions, deletions and changes set forth in **Section 6-8-2** below.

The City Clerk shall keep a copy of the Code on file and available for public use, inspection and examination.

6-8-2 **AMENDMENTS.** The following sections of the Code are hereby revised as follows:

(A) Section 101.1, *Title*, is amended to read as follows: Section 101.1, *Title*. These regulations shall be known as the Existing Building Code of the City of Elmwood, hereinafter referred to as “this Code”.

(B) Section 103, *Department of Building Safety*, is hereby deleted in its entirety.

(Ord. No. 2012-21; 08-28-12)

ARTICLE IX – BILLBOARDS

6-9-1 DEFINITIONS.

(A) "City": The City of Elmwood, in Peoria County, Illinois.

(B) "Commercial Sign": Any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, electronic messaging, billboard or any other thing which is designed, intended, or used to advertise or inform regarding an individual business, or to a product, commodity or service for sale or lease, or to any other commercial interest or activity, any part of the advertising or informational content of which is visible from any place on the main traveled way of any highway, or any part of the advertising or informational content of which is visible from any place on the streets and highways within the City.

(C) "Free Standing Sign": A permanently installed sign supported upon the ground by poles or braces not attached to a building.

(D) "Maintenance": The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic design or structure.

(E) "Billboard": A billboard is an off-premises a free standing sign, object, device, display, sign, or structure, or part thereof, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, or to express a point of view, by any means including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a billboard structure shall constitute a separate billboard. Billboards do not include on-premises commercial or political signage nor small commercial or non-commercial signs temporarily placed in residential lawns by residents, owners, contractors, realtors, or by or on behalf of religious or political candidates or issues.

(F) "Owner": A person identified and recorded as such on official records. For the purpose of this Chapter, the owner of the property on which a sign is located is presumed to be the owner of the sign, unless official records required by this Chapter indicate otherwise.

(G) "Permanent Sign": To set, fix, or secure on or on a support, thereby allowing such sign to become a fixed object to be used for the purpose of advertising or identifying any establishment, product, goods or services.

(H) "Sign": Any device, structure, fixture, or placard using graphics, symbols, color and/or written copy to advertise, to announce the purpose of, or to identify the purpose of a person, entity, establishment, product, good, service, or event or to communicate information of any kind to the public.

(I) "Sign Facing": The directional view of a sign visible from the approaching traveled way.

6-9-2 REGULATED OFF-PREMISE SIGN REQUIREMENTS.

(A) The regulated billboard requirements of this Chapter are to ensure there are no unplanned construction of billboards and that there are no pedestrian or vehicular traffic safety or hazardous situations developed within the City limits because of poor visibility, congestion, and obstructions on the roads and highways and that the welfare of the City is protected by preventing visible clutter and blight and by promoting a positive aesthetic impact.

(B)

Billboard Requirements.

- (1) There will be no new billboards allowed within the limits of the City, except when approved by the City Council.
- (2) As soon as practical after the effective date of this Chapter, the City shall compile an inventory of existing billboards within the City. Until the inventory is completed, no billboard shall be erected, modified, or relocated, nor shall the City issue any permits. Following completion of the inventory, the City shall grant a billboard permit for each existing billboard reflecting the location, size, height, zoning, and the degree of conformity with the requirements of this Chapter. Only inventoried billboards may be issued alteration or relocation permits. Billboard owners can accelerate the inventory process by providing the necessary inventory information for their billboards. If owners have provided necessary inventory information for all billboards in their ownership, the City shall release billboard permits for that ownership, regardless of the degree of completion of the remainder of the inventory.
- (3) Billboards shall not be altered with regard to size, shape, orientation, height, or location without the prior issuance of a billboard alteration or relocation permit. All such permits shall require full compliance with the provisions of this Chapter.
- (4) All existing billboards prior to the adoption of this Chapter are grandfathered within the limits of the City.
- (5) Ordinary and necessary repairs which do not change the size, shape orientation, height, or location of an inventoried billboard shall not require alteration permits.
- (6) All non-grandfathered billboards will have a maximum size of **one hundred (100) square feet** and will be spaced no closer than **one thousand (1,000) feet** from another billboard unless approved by the City Council.
- (7) No billboard shall be located in such a position that it obstructs or obscures the view of vehicular or pedestrian traffic in such a manner as to endanger the safe movement thereof.
- (8) Each billboard, any single face of which is larger than **twenty-four (24) square feet**, shall be set back at least **twenty-five (25) feet** from any road or street right-of-way line, measured from the closest part of the sign.
- (9) All billboards shall be erected in conformity with the front, side and rear yard requirements of the zoning district in which they are located.
- (10) No billboard shall be permitted whenever property zoned residential would be between the sign and the roadway toward which it is oriented.
- (11) No part or foundation or support of any billboard shall be placed on, in, or over any public property, including public rights-of-way, or any utility or drainage easement, or upon telephone or utility

poles, or natural features such as trees and rocks, except for the following:

- (a) Signs, displays, and devices which located, identify, mark, or warn of the presence of pipelines, utility lines, or rail lines and appurtenances thereto, including, but not limited to, markers used in maintenance, operation, observation, and safety.
 - (b) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct and regulate pedestrian or vehicular traffic.
- (12) After the effective date of this Chapter, it shall be unlawful for any person to erect, expand, move, or place any billboard which does not conform to the requirements set forth herein.
- (13) All billboards other than those allowed herein are prohibited within the limits of the City.

6-9-3 APPLICATIONS AND REGISTRATIONS.

(A) Applications for billboards to be located within the limits of the City will have a plan sheet showing, but not limited to, the following: location, materials list, methods of construction, anchoring and supporting, landscape plan, and certification of compliance to all federal, state, and/or county codes.

(B) Applications will be turned into the City Clerk's office before the deadline for posting the agenda for the regularly scheduled monthly meeting.

(C) All existing billboards which are located within the City limits, are not subject to application or building fees. However, all billboard owners, unless otherwise exempted in this Chapter, will be required to register with the City Clerk for purposes of obtaining a valid permit.

(D) The City Council shall take appropriate action on applications for permits under this Chapter pursuant to the rules and procedures established for other similar matters before the City Council.

6-9-4 FEES AND MAINTENANCE.

(A) **Purpose.** The purpose of the permit fee is to offset the cost to the City of enforcement of this Chapter and should not be construed as a charge for the privilege of doing business.

(B) General Administrative.

- (1) Billboard non-refundable permit application fee is **Twenty-Five Dollars (\$25.00)**.
- (2) Billboard building permit, one time fee, is **One Hundred Dollars (\$100.00)**.
- (3) Applicants will be required to apply and pay the application and building permit fees to the City, City Clerk's Office, at the time of application.
- (4) No application or building permit fees will be required for the following billboards:

- (a) Signs, displays, and devices which locate, identify, mark, or warn of the presence of pipelines, utility lines, or rail lines and appurtenances thereto, including, but not limited to, markers used in maintenance, operation, observation, and safety;
 - (b) Signs advertising the sale or lease of property on which they are located;
 - (c) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct and regulate pedestrian or vehicular traffic; and,
 - (d) City welcome signs approved by the City Council.
- (C) The owner shall maintain all freestanding billboards and the premises surrounding the sign in a clean, sanitary, and inoffensive condition, free of all obnoxious substances, graffiti, rubbish, and weeds.
- (D) All billboards shall be properly maintained at all times. Exposed surfaces shall be clean and painted (if paint is required). Defective parts shall be replaced. Construction and the placement of all billboards must conform to the applicable traffic codes of the City and the State of Illinois and in no way restrict the safe view and/or efficient movement of traffic.

6-9-5 ENFORCEMENT.

- (A) The Police Chief shall send a certified letter notifying the billboard owner of nonpayment of fees, damage, safety violation, hazard, non-maintenance, or noncompliance with this Chapter. From the day of receipt of this certified letter, the owner will have **twenty (20) days** (includes Saturdays and Sundays) to show the violation(s) have been resolved or repair(s) have been completed.
- (B) After **twenty (20) days**, the City Clerk will notify the Police Department and the billboard owner may be ticketed and fined up to **One Hundred Dollars (\$100.00)** per violation. Each day after the **twentieth (20th) day** after the receipt of the initial certified letter shall constitute a separate violation for purposes of enforcement.
- (C) If the violation(s) is not addressed within **sixty (60) days** of receipt of the initial certified letter, the City will withdraw the permit and have the billboard removed at the owner's expense.
- (D) These time periods and limitations shall commence to run upon the receipt of the first letter received by the billboard owner from the City for each individual violation. The time shall not be affected, re-initialized, or excluded in any manner, even by the receipt of subsequent letter(s) by the billboard owner for the same offense.

(Ord. No. 2009-4; 10-06-09)

ARTICLE X – CONSTRUCTION COMMISSION

6-10-1 ESTABLISHMENT; COMPOSITION. There is hereby established the construction commission (the "Commission") of the City which shall consist of **five (5) members**. Members shall not be required to be residents of the City. Members shall be experienced in the construction industry and may, but are not required to be, selected from the following professions:

- Illinois licensed architect
- Illinois licensed structural engineer
- Fire protection engineer
- Electrician
- HVAC contractor
- Licensed plumber
- Residential contractor
- Commercial contractor

6-10-2 TERMS OF MEMBERS; VACANCIES; CHAIRPERSONS, ETC. The Mayor shall appoint the members of the Commission with the consent of the City Council. No City employee shall be appointed or serve as a member. The initial term of office of members shall be **one (1) or two (2) years**, at the discretion of the Mayor. Upon the expiration of the term of office of a member, the successor shall be appointed for a term of **two (2) years**. Vacancies shall be filled for the unexpired term in the manner in which the original appointments are made.

6-10-3 ELECTION OF CHAIRPERSON. The Commission shall annually elect one of its members to serve as chairperson.

6-10-4 DUTIES AND AUTHORITY. The Commission shall be empowered with the following duties and shall have the following authority:

- (A) To review proposed changes to the building and building related codes of the City (the "Codes") and advise the City Council thereon.
- (B) To advise the City Council on the standard to be adopted by the City for the licensing of various building and construction contractors within the City.
- (C) To perform all duties required of a board of appeals by any of the Codes, with the exception of the Plumbing Code and the Illinois Accessibility Code.
- (D) To hear and decide variances of the City's building and commercial property maintenance codes as provided in **Section 6-10-6** below.
- (E) To perform such other duties as this Article and the Codes may assign to the Commission.

6-10-5 MEETINGS. The Commission shall meet on an "as needed" basis to review and act upon matters which come before the Commission. Whenever the Commission believes that an item is on the agenda for a meeting concerns a matter where to expertise of a technical representative is required, qualified experts can be requested to provide technical information to assist the Commission.

6-10-6

RIGHT TO APPEAL AND VARIANCE REQUEST.

(A) An appeal may be taken by a property owner aggrieved by a decision of the Building Official in the following instances:

- (1) In cases where discretionary power in estimating damages is given to the Building Official.
- (2) In questions relating to the security or insecurity of any building or part thereof.
- (3) In all other cases when discretionary powers are by the Codes given to the Code Official.

(B) A request for variance from the Codes may be made by a property owner for new construction or remodeling existing residential and commercial structures when strict compliance:

- (1) Would cause exceptional practical difficulties; or
- (2) Would work a particular hardship upon the owner or user of such property, as distinguished from a mere inconvenience for such owner or user, and provided that it can be shown to the satisfaction of the Commission that such relief can be granted without substantially impairing the general purpose or intent of the provisions of the Codes.

(C) A request for a variance from the property maintenance code may be made by a property owner. The Commission may grant relief from strict compliance of each provision of the property maintenance code if the petitioner meets one or more of the following criteria:

- (1) There is substantial compliance with the provision of the property maintenance code.
- (2) The granting of the variation will not be detrimental to the public health or safety or injurious to other property or improvements in the neighborhood in which the property is located.
- (3) The intent of the property maintenance code is not compromised.
- (4) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- (5) The conditions upon which an application for a variation is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same classification.
- (6) The code requirement creates a financial hardship for the petitioner that does not impose a life safety threat to the public.
- (7) The practical difficulty or hardship is caused by this Section and has not been created by any persons presently having an interest in the property.
- (8) The safety of the building occupants will not be jeopardized.

6-10-7 **WHEN APPEAL TO BE FILED; RECORDS.** An appeal may be taken within **thirty (30) days** from the date of the decision appealed from, by filing with the Building Official and with the chairperson of the Commission a notice of appeal, specifying the grounds thereof, except that in the case of a building or structure which in the opinion of the Building Official is unsafe or dangerous. The Building Official shall forthwith transmit to the Commission all the records upon which the action appealed from was taken.

6-10-8 **HEARING AND DECISION.**

(A) The Commission shall in every case requesting an appeal or variance hold a public hearing and reach a decision without unreasonable or unnecessary delay. The Commission shall publish notice of such hearing in a newspaper published within the City at least **fifteen (15) days** prior to the date of the hearing. Every decision of the Commission shall be in writing and shall be promptly filed in the office of the Code Official. A copy of the decision shall be sent by mail or otherwise to the petitioner.

(B) If a decision of the Commission reverses an order of the Code Official, the Code Official shall take action in accordance with such decision.

6-10-9 **DISQUALIFICATION OF MEMBER.** A member shall not hear an appeal in which that member has any personal, professional or financial interest.

6-10-10 **SECRETARY OF THE COMMISSION.** The Code Official shall designate a qualified clerk to serve as secretary to the Commission. The secretary shall file a record of all proceedings in the office of the building inspections division.

6-10-11 **MEETINGS TO BE OPEN.** All meetings of the Commission shall be open to the public. The petitioner, the petitioner's representative, the Code Official, and any person whose interests are affected shall be given an opportunity to be heard.

6-10-12 **QUORUM.** **Three (3) members** shall be present for form a quorum.

6-10-13 **COMMISSION DECISION.** The Commission shall act by a concurring vote of a majority of the members present.

6-10-14 **NOTICE OF DECISION.** All decisions of the Commission shall be provided in writing to the petitioner and the Code Official.

6-10-15 **PURPOSE GENERALLY.** The Commission is not for policy or political deliberations. It is intended that appeals and matters be decided purely on their technical merits, with due regard for state-of-the-art construction technology.

6-10-16 **INTENT OF APPEAL PROCESS.** The intent of the appeal process is not to waive or set aside a code requirement; rather it is intended to provide a means of reviewing a code official's decision on an interpretation or application of the code or to review the equivalency of protection to the code requirements.

6-10-17 **RECORDS.** A record of all Commission modifications and/or interpretations shall be maintained by the building inspections division to be used for reference in deciding similar issues that are brought to the Code Official and/or Commission.

6-10-18 **EFFECTIVE DATE.** This Article shall be effective upon its passage and publication as provided by law.

(Ord. No. 2012-13; 08-28-12)

ARTICLE XI – CONTROL OF EROSION, SEDIMENT AND STORMWATER

6-11-1 **DEFINITIONS.** For the purposes of this Article, the following words, terms and phrases shall have the meanings respectively ascribed to them in this Section, unless the context clearly indicates otherwise:

(A) **Disturbed Area:** Any area of land on which the ground surface will be affected or altered by any land disturbing activity.

(B) **Erosion Control Administrator:** The duly appointed or acting Building Inspector of the City shall serve ex officio as erosion control administrator charged with administration of this Article.

(C) **Land Disturbing Activity:** Any change in land, which may result in soil erosion from water or wind and the movement of sediments into City waters or onto lands in the City, or a change in the amount and/or intensity of stormwater runoff, including, but not limited to, the covering with an impervious surface, stockpiling, clearing, grading, excavating, rehabilitating, transporting, depositing or filling of land including the construction or rehabilitation of any structure.

(D) **City:** The City of Elmwood, Peoria County, Illinois.

6-11-2 **PERMIT REQUIRED.**

(A) No person shall engage in any land disturbing activity resulting in a disturbed area of more than **five thousand (5,000) square feet** or undertake any new building construction regardless of the size of the disturbed area without first obtaining a permit as provided in this Article.

(B) Applications for permits shall be submitted on a form approved by resolution of the City Council and as may be modified from time to time by the erosion control administrator. The erosion control administrator is hereby delegated the authority to modify the application and standards approved by resolution of the City Council in order to facilitate or improve compliance with this Article.

(C) No permit is required for agricultural activities occurring on agriculturally zoned land or for the routine maintenance of roads, accessways and utility lines.

(D) All persons engaged in any land disturbing activities shall in addition comply with any and all applicable federal, state and local laws and regulations and where necessary shall obtain a national pollutant discharge elimination system ("NPDES") permit.

6-11-3 **STORMWATER RETENTION REQUIRED.**

(A) All persons engaged in any land disturbing activity shall provide stormwater retention in accordance with the following standards unless otherwise approved by the erosion control administrator:

(1) Retention for any property/project that will result in a total impervious area between **five thousand (5,000) square feet** and **one (1) acre** may at the discretion of the erosion control administrator be based on the rational method for the calculations included as part of the application for a permit. The erosion control administrator shall determine the suitability of the rational method based on location of property/project, history of drainage in the affected area, and topography.

- (2) Retention for any property/project that will result in a total impervious area over **one (1) acre** shall be based on the soil conservation service (SCS) method for calculations or an alternative method approved by the erosion control administrator.
- (3) Retention for the addition of impervious area shall be calculated as the cumulative impervious area. For example, in year One, a commercial site increases the parking lot by **twenty thousand (20,000) square feet**. In year Two, the same commercial site adds a building with an area of **thirty thousand (30,000) square feet**. In year One, if approved by the erosion control administrator, the rational method may be used for stormwater detention calculations required by this Article. In year Two, stormwater calculations shall be submitted and shall be based on the total increase of **fifty thousand (50,000) square feet** of impervious area and the SCS method for calculation or an approved alternate method.

6-11-4 ENFORCEMENT AND STOP WORK ORDER FEE.

(A) The erosion control administrator shall make or cause to be made periodic inspections of all work authorized by permits issued in accordance with this Article to ensure that said work is in compliance with the provisions of this Article and the permit; shall make or cause to be made, investigations of violations of this Article and shall cause any violations to be corrected.

(B) Any permit issued pursuant to this Article shall be suspended or revoked by a stop work order issued by the erosion control administrator when he finds from personal inspection or from competent evidence that the rules, regulations or standards under which said permit was issued are being violated.

6-11-5 APPEALS TO CITY COUNCIL.

(A) Any person directly aggrieved by any decision, order, requirement or determination of the erosion control administrator made pursuant to this Article shall have the right to appeal such action to the City Council. Such appeal shall be made within **thirty-five (35) days** from the date of the action appealed from, shall be filed in writing, and shall include a short, concise statement of why the action is being appealed. The fee for such an appeal shall be nonrefundable and in the amount of **Five Hundred Dollars (\$500.00)** payable to the City and is due with the appeal. In addition, the person filing the appeal shall pay all required publication costs associated with the appeal.

(B) Upon receipt of an appeal, the City Council shall within a reasonable time consider the appeal. The Mayor may in his discretion, appoint a hearing officer to conduct a hearing on the appeal and to make a recommendation to the City Council regarding disposition of the appeal. The City Council may affirm, modify or reverse any appealed action.

6-11-6 VIOLATIONS. Any person who violates any provision of this Article or fails to comply with any other requirements thereof, who engages in any land disturbing activity as defined herein without obtaining the proper permit, or who fails to comply with the permit or directive issued by the erosion control administrator, shall be guilty of a violation punishable by a fine of not less than **One Hundred Dollars (\$100.00)** or more than **Five Hundred Dollars (\$500.00)** each day that the violation continues shall be deemed a separate offense.

(Ord. No. 2017-04; 11-07-17)

BUILDING REGULATIONS

EXHIBIT "A"

FEE SCHEDULE

Fees for the issuance of building permits as required under these regulations are as follows:

ONE-FAMILY AND TWO-FAMILY RESIDENTIAL: NEW CONSTRUCTION, ADDITIONS AND ALTERATIONS	
Fee Per Square Foot	\$0.50
Minimum Fee, new construction	\$1,000.00
Minimum Fee, additions	\$500.00
Minimum Fee, alteration (major – requires 2 or more inspections)	\$250.00
Minimum Fee, alteration (minor – requires only 1 inspection)	\$75.00

COMMERCIAL	
Fee Per Square Foot	\$0.75
Minimum	\$1,250.00
Maximum	\$7,500.00
Minimum Fee, alteration (minor – requires only 1 inspection)	\$790.00
Final Inspection Only	\$330.00

ELECTRICAL, PLUMBING, HVAC	
New Construction, additions	No additional fee
Alterations	\$75.00 per additional permit

MISCELLANEOUS BUILDING PERMITS	
Swimming Pool (above ground)	\$50.00
Swimming Pool (partially or totally submerged)	\$100.00
Fences (front yard only)	\$55.00
Sign Permit (no electrical)	\$50.00
Sign Permit (with electrical)	\$105.00
Demolition Permit	\$50.00
Accessory Buildings (other than garages and < 100 sq. ft.)	\$50.00
Accessory Buildings (other than garages and ≥ 100 sq. ft.)	\$100.00
Garages (detached and < 600 sq. ft.)	\$250.00
Garages (detached and ≥ 600 sq. ft.)	\$500.00
Decks (freestanding and attached)	\$250.00

***IF WORK ON PROJECT COMMENCES PRIOR TO THE ISSUANCE OF THE REQUIRED PERMIT(S) OR PAYMENT OF THE REQUIRED FEE(S), ALL FEES MAY BE DOUBLED AS DETERMINED BY THE MAYOR AND BUILDING CODE OFFICIAL.**

(Ord. No. 2018-10; 11-19-19)

CHAPTER 7

BUSINESS CODE

ARTICLE I – ADMINISTRATION

7-1-1 APPLICATIONS.

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

(B) Each application shall contain:

- (1) the name of the applicant;
- (2) the permit or license desired;
- (3) the location to be used, if any;
- (4) the time covered; and
- (5) the fee to be paid.

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

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

7-1-3 TERM AND FORM OF LICENSE. No license shall be granted for longer than a **one (1) year term**, and all licenses, unless otherwise provided by ordinance, shall run from **January 1st to December 31st** of each year. Every license shall be signed by the Mayor and attested by the Clerk under the corporate seal, and no license shall be valid until signed and countersigned as aforesaid, nor shall any person be deemed to be licensed until the same shall have been issued to him in due form.

7-1-4 INVESTIGATIONS.

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

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

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

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

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

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

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

7-1-5 FEES. In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Clerk in the amounts prescribed by the corporate authorities. When an applicant has not engaged in the business or activity until after the expiration of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business or activity has been or will be conducted. Except as otherwise provided, all license and permit fees shall become a part of the corporate fund. In no event shall any rebate or refund be made of any license or permit fee, or part thereof, by reason of

death or departure of the licensee or permittee; nor shall any rebate or refund be made by reason of non-use of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity.

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

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

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

7-1-8 CHANGE OF LOCATION. The location of any licensed business or occupation, or the location of any permitted act may be changed, provided that **ten (10) days** notice thereof is given to the Clerk, in the absence of any provision to the contrary; provided further, however, that all applicable ordinances and regulations of this Municipality shall be complied with.

7-1-9 LOCATION. No license for the operation of a business or establishment in this Municipality shall be construed to permit the operation of a licensed business or establishment in more than **one (1) location** in this Municipality; a separate license shall be required for each location of a licensed establishment. For the purpose of this Code, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel; shall be operated and managed by the same person or owner; and shall be an establishment with the same classification.

7-1-10 NUISANCES PROHIBITED.

7-1-10.1 GENERALLY. No business or establishment, whether licensed or not, shall be so conducted or operated as to constitute a nuisance in fact, and no building, vehicle or structure, yard, lot, premises or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance or so as to be dangerous to life or detrimental to health.

7-1-10.2 UNSAFE OR UNHEALTHFUL BUSINESS.

(A) No building or structure utilized, constructed or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe or dangerous condition.

(B) No substance, matter or thing of any kind whatsoever, which would be dangerous or detrimental to health, shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in this Municipality.

7-1-10.3 REFUSE DISPOSAL.

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

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

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

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

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

7-1-11 WORKING CONDITIONS.

7-1-11.1 HEALTH REQUIREMENTS. No owner, lessee, manager, or superintendent of any store, factory, workshop or other place where persons are employed shall cause or permit such place or any room or part thereof to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.

7-1-11.2 SANITATION. All such places of employment shall be kept in a clean condition, free from effluvia of a sewer, drain, privy, stable or other nuisance(s); also as far as practicable, such premises shall be free from all gases, vapors, dust, or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for male and female employees shall be provided and such facilities shall be properly ventilated.

7-1-11.3 HEAT REQUIRED.

(A) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop to maintain a temperature within such factory or workshop of not less than **sixty-two degrees Fahrenheit (62° F.)** without such undue restriction of ventilation as to interfere with proper sanitary conditions therein; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or lower temperature than **sixty-two degrees Fahrenheit (62° F.)** is necessary or expedient for the work or manufacturing processes of such business.

(B) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than **sixty-two degrees Fahrenheit (62° F.)**, without such undue restriction of ventilation as to interfere with proper sanitary conditions therein between the hours of **8:00 A.M. and 6:00 P.M. from October 1st of each year until June 1st of the succeeding year [Sundays and legal holidays excepted].**

7-1-11.4 INSPECTION. The Chief of Police or the Building Inspector, if any, shall visit or cause to be visited all places of employment in this Municipality as often as they shall deem necessary to assure compliance with the provisions of this Section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

7-1-12 INSPECTIONS.

(A) Whenever inspections of the premises for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation

of this Municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of this Municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

(B) Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of this Municipality requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in this Municipality who refuses to permit any duly authorized officer or employee to make such inspection or to take adequate sample(s) of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of this Municipality after having first presented a warrant authorizing such entry.

7-1-13 SUSPENSION, REVOCATION OF LICENSE OR PERMIT.

7-1-13.1 NUISANCE. When the conduct or operation of any business or establishment, whether or not licensed, shall constitute a nuisance in fact and a clear and present danger to the public health, safety or general welfare, the Mayor shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any license or permit for a period not to exceed **ten (10) days.**

7-1-13.2 HEARING. Within **eight (8) days** after he has so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

7-1-13.3 REVOCATION. Licenses and permits issued in this Municipality, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in **Subsections 7-1-13.4** and **7-1-13.5** of this Section for any of the following causes:

(A) Any fraud, misrepresentation or false statement contained in the application for the license or permit;

(B) Any violation by the licensee or permittee of Code provisions relating to the license or permit, the subject matter of the license or permit, or the premises occupied;

(C) Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;

(D) Failure of the licensee or permittee to pay any fine or penalty owed to this Municipality;

(E) Refusal to permit an inspection or sampling, or any interference with a duly authorized officer or employee in the performance of his duties in making such inspections, as provided in **Section 7-1-12**.

Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable Code regulations of this Municipality.

7-1-13.4 HEARING NOTICE. Notice of the hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail [return receipt requested] to the licensee or permittee at his last known address at least **five (5) days** prior to the date set for the hearing.

7-1-13.5 COUNSEL. At the hearing, the attorney for the Municipality shall present the complaint and shall represent the Municipality. The licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The Mayor shall preside and shall render the decision.

7-1-14 APPEAL. Any person aggrieved by the decision of the Mayor regarding the denial of an application for a business license as provided in **Section 7-1-4** or in connection with the revocation of a license or permit as provided in **Section 7-1-13** shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the Clerk, within **ten (10) days** after notice of a denial of an application or a revocation of a license or permit, a written statement under oath setting forth specifically the grounds for appeal. The Mayor shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in **Section 7-1-13** hereof. The decision of the City Council on such appeal shall be final.

7-1-15 LICENSE TO BE POSTED. It shall be the duty of every person conducting a licensed business in this Municipality to keep his license posted in a prominent place on the premises used for such business at all times.

7-1-16 BUSINESS VEHICLE STICKER. Whenever the number of vehicles used is the basis in whole or in part for a license fee, the Clerk shall furnish the licensee with a tag or sticker for each vehicle covered by the license and such tag or sticker shall be posted or affixed in a conspicuous place on each business vehicle.

ARTICLE II - SOLICITORS

7-2-1 **DEFINITIONS.** For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

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

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

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

(A) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever, which shall include offering for sale foodstuffs from a vehicle driven upon the public roadway such as an ice cream truck/van business, or; **(Ord. No. 2011-14; 06-07-11)**

(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.

7-2-2 **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.

7-2-3 **APPLICATION FOR CERTIFICATE OF REGISTRATION.** Applications for a Certificate of Registration shall be made upon a form provided by the Chief of Police of this Municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application, to-wit:

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

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

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

- (D) Physical description of the applicant.
- (E) Name and address of the person, firm or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.
- (F) Name and address of employer during the past **three (3) years** if other than the present employer.
- (G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.
- (H) Period of time for which the Certificate is applied.
- (I) The date or approximate date of the latest previous application for a Certificate under this Chapter, if any.
- (J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?
- (K) Has the applicant ever been convicted of a violation of any of the provisions of this Code or the regulations of any other Illinois municipality regulating soliciting?
- (L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?
- (M) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application in this Municipality and the address from which such business was conducted in those municipalities.
- (N) Also, such additional information as the Chief of Police may deem necessary to process the application.

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

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

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

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

7-2-4 **ISSUANCE AND REVOCATION OF CERTIFICATE.** The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as

herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

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

The Certificate of Registration shall state the expiration date thereof.

7-2-5 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.

7-2-6 NOTICE REGULATING SOLICITING. Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

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

(B) A weatherproof card, approximately **three inches by 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 and containing the applicable words, as follows:

"ONLY REGISTERED SOLICITORS INVITED"

OR

"NO SOLICITORS INVITED"

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

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

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

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

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

7-2-8 UNINVITED SOLICITING PROHIBITED. It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-2-6**, with the exception of any sound produced by an ice cream truck/van located on the public highway in the operation of its business. **(Ord. No. 2011-14; 06-07-11)**

7-2-9 TIME LIMIT ON SOLICITING. It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to **10:00 A.M. or after 5:00 P.M.** of any weekday or at any time on a Sunday or on a State or National holiday, with the exception of any sound produced by an ice cream truck/van located on the public highway in the operation of its business, which ice cream truck/van business shall be permitted to operate such sound between **1:00 P.M.** and **8:00 P.M.**, except on a State or National holiday. **(Ord. No. 2011-14; 06-07-11)**

7-2-10 SOLICITATIONS ON PUBLIC HIGHWAYS. Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

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

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

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

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

- (E) Any person so engaged in such solicitation shall be at least **sixteen (16) years of age** and shall wear a high visibility vest.
- (F) Solicit only during daylight hours.
- (G) Any one charitable organization shall be limited to conducting no more than **two (2)** solicitations per calendar year.

7-2-11 CHARITABLE OR RELIGIOUS SOLICITING. All persons or religious organizations engaged in the acts of soliciting charitable or religious contributions shall register with the Police Department upon request by the Mayor, City Clerk, Chief of Police or Mayor’s designee. There shall be no fee for registration, however, the following information must be given to the Police Department by the applicant:

- (A) Name and physical description of the applicant or applicants.
- (B) Permanent home address and local address if operating from such an address.
- (C) Evidence that the agent is acting on the behalf of the firm, corporation or religious organization he represents.
- (D) If the donations are to be tax deductible, proof of a valid Certificate of Exemption.

Any person or religious organization failing to provide the above listed information shall be prohibited from seeking donations; however, they shall not be prohibited for exercising their First Amendment Rights. Upon receipt of the information required for registration, the applicant is free to proceed.

7-2-12 INSURANCE BUSINESS. No license fee shall be collected or imposed on any insurance company or its agents for the privilege of conducting their insurance business in the City; provided however, a Certificate of Registration shall nevertheless still be obtained prior to any soliciting as required and provided in this Article.

7-2-13 FEES. Upon making an application for a Certificate, the applicant shall pay a license fee, which shall be as follows:

- (A) **Daily License: \$50.00 per person per day.**
- (B) **Annual License: \$300.00 per person per year.**
- (C) **Annual License for Ice Cream Truck/Van Business: \$75.00 per business per year**

**(Ord. No. 2011-14; 06-07-12)
(See 65 ILCS Sec. 5/11-42-5)**

ARTICLE III - RAFFLES

7-3-1 **TITLE.** This Article shall be known, cited, and referred to as the "**Raffle Code of the City of Elmwood**".

7-3-2 **PURPOSE.** The purpose of this Article is to regulate and control the conduct of raffles within the City.

7-3-3 **DEFINITIONS.** For the purposes of this Article, the terms defined herein have the meanings given them:

"NET PROCEEDS" means the gross receipts from the conduct of raffles, less sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.

"RAFFLE" means a form of lottery, as defined in **Section 28-2, subparagraph (b) of the Criminal Code of 1961**, conducted by an organization licensed under this Article in which:

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

(B) 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.

7-3-4 **LICENSE REQUIREMENTS.** It shall be unlawful to conduct a raffle or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle in the City, unless the raffle has been licensed in accordance herewith.

7-3-5 **MULTIPLE RAFFLES.** A person eligible for licensure under this Article desiring to hold more than **one (1) raffle** during a calendar year may apply for an annual license. For purposes of this paragraph only, a "raffle" is considered to be a single location and time of determining a winning chance(s). Multiple prizes and drawings may be held at any one time and location.

7-3-6 APPLICATION. Any person seeking to conduct or operate a raffle shall file an application therefor with the City Clerk on forms provided by the City Clerk. The application shall contain the information required by **230 ILCS Sec. 15/3**, and shall be accompanied by a fee of **One Dollar (\$1.00)** for the license, which fee shall be returned if the license is not granted.

7-3-7 LICENSEE QUALIFICATIONS. Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, religious, and veteran's organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** or more 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. Those persons and organizations described in **230 ILCS Sec. 15/4** are ineligible for any raffle license.

7-3-8 LICENSE ISSUANCE. The City Clerk shall review all raffle license applications within **ten (10) days** from the date of application and shall, within **thirty (30) days** from the date of application, approve or deny a raffle license application. If an application is approved, the City Clerk shall forthwith issue a raffle license to the applicant. A raffle license shall be valid for a period of **one hundred eighty (180) days** from and after its issuance in the instance of a single raffle license. Multiple raffles shall be valid for the specific periods set forth in the application.

All licenses shall be numbered consecutively in the order in which they are issued R-1-82, R-2-82, R-3-82, etc. The City Clerk shall keep an accurate record of the licenses and numbers issued.

7-3-9 CONDUCT OF RAFFLES. The operation and conduct of raffles are subject to the following restrictions:

(A) The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee;

(B) No person except a bona fide member of the licensee may participate in the management or operation of the raffle;

(C) No person may receive any remuneration or profit for participating in the management or operation of the raffle;

(D) A licensee may rent a premises on which to determine a winning chance or chances in a raffle only from an organization which is also licensed under this Article;

(E) Raffle chances may be sold, offered for sale, conveyed, issued, or otherwise transferred for value only within the area specified on the license; and the winning chances may be determined only at the location specified on the license;

(F) Each chance shall bear the raffle license number as assigned by the City Clerk, exception: if all chances are sold only at the site of the drawing, on the day of the drawing, the chances need not bear the raffle license number; in such an event, the license number shall be displayed in some prominent place on the premises;

(G) No person under the age of **eighteen (18) years** may participate in the operation or conduct of raffles. A person under the age of **eighteen (18) years** may be within the area where winning chances are being determined only when accompanied by his parent or guardian;

(H) No chance shall be sold, offered for sale, conveyed, issued, or otherwise transferred for value to any person under the age of **eighteen (18) years**; however, any person may make a gift of a chance to any person of any age;

(I) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle is the sum of **One Hundred Thousand Dollars (\$100,000.00)**;

(J) The maximum retail value of each prize awarded by a licensee in a single raffle is the sum of **One Hundred Thousand Dollars (\$100,000.00)**;

(K) The maximum price which may be charged for each raffle chance issued or sold is the sum of **One Hundred Dollars (\$100.00)**; and

(L) The maximum number of days during which chances may be issued or sold is **one hundred eighty (180) days**.

7-3-10 **RAFFLES MANAGER.** The operation and conduct of a raffle shall be under the supervision of a single raffle manager designated by the licensee. The manager shall give a fidelity bond equal in amount to the aggregate retail value of all prizes to be awarded in favor of the licensee conditioned upon his honesty in the performance of his duties. The 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. Such fidelity bond may be waived if so requested by a unanimous vote of the members of the licensed organization.

7-3-11 **RECORDS.** Each organization shall keep records of its raffles and shall keep segregated its gross raffle receipts as provided by **230 ILCS Sec. 15/6**.

7-3-12 **APPEALS.** Any persons whose application is denied may appeal the denial to the City Council. Such appeal shall be in writing and must be filed with the City Clerk within **ten (10) days** of the date of the written notice of denial. The City Council shall hear the appeal at its next regularly scheduled meeting. Any person appealing a denial may be represented by an attorney, may call witnesses and may cross-examine. The Mayor of the City shall preside over such appeal and the majority vote of the City Council members present in favor of issuance or denial shall prevail.

[Unless Otherwise Noted, This Article Ord. No. 82-2; 07-06-82]

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 (1)** or more of the materials or articles herein mentioned.

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

"JUNK YARD" as used in this Chapter shall be held to mean and include the premises on which a junk dealer is engaged in the business of buying, selling, bartering, exchanging, or collecting, receiving, storing or holding in possession for sale, barter, or exchange, any of the things in and by this section defined as "junk"
(Also see Chapter 24, Article IV 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 of partnership, the names and residence addresses of all the partners and in the case of a corporation, the names and residence addresses of the president and secretary shall be stated in the application.

7-4-5 **PERMIT.** In addition to submitting an application for a license, any person desiring to operate a junk yard shall submit to the City Clerk a written plan in simple form, showing the layout of the proposed junk yard which shall be submitted by the City Clerk to the City Council at the next regular meeting of the City Council for approval or disapproval. Upon approval of the plan by the City Council, a permit shall be issued by the City Clerk, authorizing the applicant to begin and complete construction of the proposed junk yard in accordance with the plan submitted. Upon completion of the construction of the proposed junk yard in accordance with the plans submitted and upon meeting all other requirements provided by this Code and other City regulations, the applicant shall be issued a license as provided herein.

7-4-6 **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.

7-4-7 **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.

7-4-8 **LICENSE FEE.** The annual license fee for each junk yard shall be **Two Hundred Dollars (\$200.00)** payable in advance with the filing of the application for license, and shall not be subject to 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.

7-4-9 **MINORS.** No licensee hereunder shall purchase or receive any article whatsoever from any minor, without the written consent of their parents or guardians.

ARTICLE V – SPOON RIVER VENDORS

7-5-1 VENDORS. The following criteria must be met in order to be a lawful vendor in the City during the annual Spoon River Scenic Drive:

(A) **Registration Contract Required.** At all times from and after the date of **January 1, 2014**, during the two weekends in October when the Spoon River Valley Scenic Drive is held, and so long thereafter that the City is a scheduled city on the formal route of the scenic drive designated by the Spoon River Valley Scenic Drive Association, Inc., it shall be unlawful within the City, for a vendor, individual, entity or association of individuals and/or entities, to pay a fee, make a donation or make payment in any form to any owner, lessor or lessee of real estate located within the City for the purpose of offering for sale or selling goods, wares or merchandise that are typical or sometimes or customarily sold and/or displayed on the Spoon River Scenic Drive including, but not limited to, crafts, antiques, clothing, food, etc., without a current registration contract duly entered into with the Spoon River Valley Scenic Drive Associates, Inc., an Illinois Not-for-Profit Corporation.

(B) **Proof of Registration.** Vendors shall display their current and valid annual registration certificate/contract with the Spoon River Valley Service Drive Associates, Inc. at a prominent location within their tent/booth/selling area. Vendors shall also have their current and valid annual registration contract available for inspection upon demand by local law enforcement officials.

(C) **Violation.** It shall be prima facie evidence of a violation of this Section, if the vendor does not so display his or her or its current valid annual registration certificate or cannot produce a current, valid registration contract with the Spoon River Valley Scenic Drive Associates, Inc., upon demand.

(D) **Penalty.** Violations of this Section shall be punishable by a fine of **One Hundred Dollars (\$100.00) to Five Hundred Dollars (\$500.00)** for each violation. Each day or partial day of violation is a new offense. Local law enforcement officials are authorized to seize all goods, wares and merchandise offered for sale by an unregistered vendor.

(E) **Exemptions.** This Article and the requirement for registration shall not apply to:

- (1) owners and operators of businesses within the City who or which conduct business on a regular day after day basis at the usual location of such business within the City; or,
- (2) owners of record of real estate located within the City who or which offer for sale or sell goods, wares or merchandise including, but not limited to, crafts, antiques, clothing, food, etc., who or which engage in such activity on the real estate owned by them.

(Ord. No. 2013-17; 09-17-13)

CITY OF ELMWOOD

BUSINESS LICENSE APPLICATION

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

(PLEASE TYPE OR PRINT)

1. Applicant's Name: _____ PHONE () _____
2. Applicant's Address _____
City _____ State _____ ZIP _____
3. Length of resident at above address _____ years _____ months
4. Applicant's Date of Birth ___/___/___ Social Security No. _____
5. Marital Status _____ Name of Spouse _____
6. Citizenship of Applicant _____
7. Business Name _____ PHONE () _____
8. Business Address _____
City _____ State _____ ZIP _____
9. Length of Employment _____ years _____ months
10. All residences and addresses for the last three (3) years if different than above:

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

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

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

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

OFFICIAL BUSINESS LICENSE

STATE OF ILLINOIS)
COUNTY OF PEORIA) ss.
CITY OF ELMWOOD)

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 Elmwood, Illinois** in this behalf made and required license is, by authority of the
City of Elmwood, Illinois given and granted to the _____ to ____
_____ at _____
_____ in the **City of Elmwood, County of Peoria, 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 Elmwood, 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 Elmwood, County of Peoria, Illinois**
and the seal thereof, this _____ day of _____, _____.

MAYOR
CITY OF ELMWOOD

COUNTERSIGNED:

CITY CLERK
CITY OF ELMWOOD

(SEAL)

APPLICATION FOR RAFFLE LICENSE

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

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

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

PRESIDENT:

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

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

List any other members responsible for the conduct and operation of the raffle on the back of this page. List name, date of birth, address, social security number, and phone number.

_____ This request is for a single raffle license.
_____ This request is for a multiple raffle license.

The aggregate retail value of all prizes to be awarded: \$ _____
Maximum retail value of each prize to be awarded in the raffle: \$ _____
The maximum price charged for each raffle chance issued: _____
The area or areas in which raffle chances will be sold or issued: _____

Time period during which raffle chances will be issued or sold: _____

The date, time and location at which winning chances will be determined: _____

Date: _____ Time: _____
Location: _____

If multiple raffles license is requested, list on a separate sheet, the date, time, and location for each raffle to be held within the one (1) year period of time from the date of the issuance of the license.

THE APPLICATION FEES ARE NONREFUNDABLE EVEN SHOULD THE APPLICATION BE REJECTED BY THE CITY COUNCIL.

APPLICATION FOR RAFFLE LICENSE

SWORN STATEMENT

The following officers attest to the not-for-profit character of the applicant organization.

(NAME OF ORGANIZATION)

Dated this _____ day of _____, _____.

PRESIDING OFFICER

SECRETARY

STATE OF ILLINOIS)
) ss.
COUNTY OF PEORIA)

Signed and sworn to before me this _____ day of _____, _____.

PRESIDING OFFICER

SECRETARY

NOTARY PUBLIC

SINGLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____

Period of time during which raffle chances may be sold: _____

Maximum price charged for each raffle chance issued or sold: \$ _____

Date, time and location at which winning chance will be determined:

Date: _____ Time: _____

Location: _____

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the City of Elmwood and the Corporate Seal thereof, this ____ day of _____, _____.

MAYOR
CITY OF ELMWOOD

CITY CLERK
CITY OF ELMWOOD

(SEAL)

MULTIPLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____

Period of time during which raffle chances may be sold: _____

Maximum price charged for each raffle chance issued or sold: \$_____

This is a license for multiple raffles to be held within the maximum period of one (1) year from date of this license. The date, the and location of each raffle is as set forth on Exhibit 1, attached hereto and hereby incorporated by reference.

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the City of Elmwood and the Corporate Seal thereof, this ____ day of _____, _____.

MAYOR
CITY OF ELMWOOD

CITY CLERK
CITY OF ELMWOOD

(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: _____

APPLICANT/FIELD CHECK

INFORMATION CARD

Name	Location Date Time
Residence Address	D.L.#
Business Address	Vehicle Color Yr. Body License Info
Occupation	Vehicle Modifications:
Social Security Number	
Race Sex Height	Action Leading to Check:
Weight Eyes Hair	
Complexion Date of Birth	
Unusual Features:	
	Comments:
Hat Coat	Associates:
Cap Jacket	
Blouse Dress	
Shirt Sweater	
Skirt Trousers	

CHAPTER 8

CABLE TELEVISION

ARTICLE I – CABLE TELEVISION FRANCHISE

8-1-1 **PURPOSE.** The City of Elmwood finds that the continued development of cable communication has the potential of having great benefit and impact upon the citizens of the City, because of the complex and rapidly changing technology associated with cable communications, the City further finds that the public convenience, safety and general welfare can best be served by establishing and maintaining regulatory powers which should be vested in the City or such City officials as the City shall designate. It is the intent of this Article and subsequent amendments to provide for and specify the means to attain the best possible public interest and public purpose in these matters. Further, it is recognized that cable communications systems have the capacity to provide not only entertainment and information services to the City's residents, but can provide additional services.

For these purposes, the following goals underlie the provisions contained herein:

(A) Where economically reasonable, Cable Television Services should be made available to all City residents.

(B) The system should be capable of accommodating both the present and reasonably foreseeable future cable television needs of the citizens of the City.

8-1-2 **DEFINITIONS.** Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Section shall have the following meanings when used in this Article.

Basic Revenues. The following types of revenue received by a Grantee directly from the operations of a Cable Television System in the City; regular subscriber service fees for all service levels containing broadcast stations or non per channel pay services.

Cable Act. The Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 521 et seq.

Cable Television Service. The provision of television reception, communications and/or entertainment services for direct or indirect compensation, or as otherwise provided by this Article, and distributing the same over a Cable Television System.

Cable Television System. A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Television Service to multiple subscribers within a community, not including a facility or combination of facilities that serves only to retransmit the television signals of **one (1)** or more television broadcast stations; or a facility or combination of facilities that serves only subscribers in **one (1)** or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities use any public right-of-way or public utility easement.

Channel. A portion of the electro-magnetic frequency spectrum (or any other means of transmission, including but not limited to optical fibers) which is capable of carrying the equivalent of **one (1)** six megahertz television broadcast signal and includes uses of all or any portion of such band of frequencies.

City. The City of Elmwood.

City Council. The City Council of the City of Elmwood, State of Illinois.

Commercial Subscriber. All subscribers not defined as either residential or non-commercial.

FCC. The Federal Communications Commission.

Franchise. The nonexclusive rights granted pursuant to this Article to construct, operate, and maintain a Cable Television System along the public rights-of-way within all of the City. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the City as required by other ordinances and laws of the City.

Franchise Agreement. A contract entered into between the City and the Grantee pursuant to this Article, containing additional provisions of the Franchise granted.

Grantee. The person, partnership, firm, or corporation to whom a Franchise, as herein defined, is granted by the City Council under this Article and the lawful successor, transferee or assignee of said person, firm, or corporation.

Gross Revenues. The following types of revenue received by a Grantee directly from the operations of a Cable Television System in the City; regular subscriber service fees, per channel pay services, leased channel revenues, converter and remote control rental revenues.

Non-Commercial. Any public, educational or governmental institution.

Person. Any individual, firm, partnership, association, corporation, or organization of any kind.

Residential Subscriber. A subscriber who receives Cable Television Service in a single family home or in an individual dwelling unit of a multiple dwelling, where the service is not to be utilized in connection with a business trade or profession.

Service Area. The geographical area within the incorporated limits of the City as now exist or hereafter are expanded.

Street(s). The surface of and the space above and below any publicly owned or maintained property or right-of-way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway, or drive, now or hereafter existing as such written the City.

Subscriber. Any person or entity lawfully receiving any portion of the Cable Television Service of a Grantee pursuant to this Article.

8-1-3 APPLICATION FEE.

(A) Applicants for a new Franchise hereunder shall pay an application fee to the City of **Two Thousand Five Hundred Dollars (\$2,500.00)** which sum shall be due and payable to the City upon submission to the City of an application for a Franchise or as soon thereafter as demanded by the City Clerk. The application fee shall be nonrefundable.

(B) Applications for renewal of a Franchise shall not be accompanied by a filing fee. The Franchise Fee collected by the City shall be used to cover the costs associated with a renewal application.

8-1-4 ACCEPTANCE; EFFECTIVE DATE.

(A) Within **thirty (30) days** after final action granting a Franchise, which shall be done by resolution of the City Council, the Grantee shall file with the City Clerk a written acceptance acknowledged before a Notary Public of the conditions required for the Franchise. Such acceptance shall acknowledge that the Grantee agrees to be bound by and to comply with the provisions of this Article, the Franchise Agreement (if any) and applicable law and shall be in such form and content as to be satisfactory to and approved by the City Attorney. If such acceptance is not filed within said time, then the Franchise so awarded may be deemed void and of no further force and effect and the officer of Franchise so awarded to Grantee may stand revoked, at the option of the City.

(B) Concurrently, with the filing of the written acceptance, the Grantee shall file with the City Clerk the bond and insurance certificate required by this Article.

(C) The effective date of the Franchise shall be the **first (1st) day** of the month next following the date on which the Grantee files the acceptance, bond and insurance certificate as required herein; provided, however, if any of the material required to be filed with the acceptance or the acceptance itself is defective or fails to meet with approval, the Franchise shall not be effective until such defect is cured, or such approval is obtained.

8-1-5 TERM OF FRANCHISE. The duration of a Franchise granted pursuant to this Article shall be not more than **fifteen (15) years**. A Franchisee shall have the option to renew any Franchise granted hereunder pursuant to applicable federal law.

8-1-6 REVOCAION OF FRANCHISE AND OTHER PENALTIES.

(A) Subject to the provisions of this Section, the City reserves the right to revoke, at any time, any Franchise granted hereunder and rescind all rights and privileges associated therewith in the event that:

- (1) Grantee has not substantially complied with a material provision of this Article, the Franchise Agreement, or of any supplemental written agreement entered into by and between the City and the Grantee; or
- (2) Grantee has made a material false statement in the application for the Franchise, knowing it to be false, or Grantee commits a fraud in its conduct or relations under the Franchise with the City; or
- (3) Grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or assignment for benefit of creditors, is unable to pay its debts as they mature, unless the Grantee is in due process of contesting such debts; or

- (4) Grantee fails to comply with any final federal or state judgment arising directly from the exercise of Grantee's rights under its Franchise; or
- (5) Grantee fails to provide or maintain in full force and effect the bond and insurance policies required by this Article; or
- (6) Grantee assigns, sells or transfers its title or interest in its Franchise without the consent of the City Council.

(B) In the event that the City shall make a preliminary decision to revoke a Franchise granted hereunder, it shall give the Grantee a minimum of **sixty (60) days** written notice of its intention to terminate and stipulate the cause. A public hearing shall be scheduled for the end of said **sixty (60) day** period. If during said period, the cause shall be cured to the satisfaction of the City, the City shall declare the notice to be null and void. If the cause is not cured to the satisfaction of the City, before a Franchise may be terminated, the Grantee must be provided with an opportunity to be heard before the City Council in a public hearing in accordance with due process procedures. After the public hearing, if the City determines that the Franchise should be terminated, it shall issue a written decision containing its findings of fact and stating the specific grounds for termination. The decision to terminate a Franchise shall be subject to judicial review as provided by law.

(C) A Grantee shall not be declared in default or be subject to any sanction under any provision of this Article in any case where the action justifying such sanction is without the Grantee's knowledge or authorization or outside its control.

8-1-7 TRANSFER OF CABLE TELEVISION SYSTEM.

(A) No transfer of control of the Cable Television System other than a *pro forma* transfer to a parent or a wholly owned subsidiary corporation, or to a partnership with the same general partner as Grantee, or hypothecation as the result of a commercial loan shall take place, whether by force or voluntary sale, lease, assignment, foreclosure, attachment, merger, or any other form of disposition, without prior notice to and approval by the City Council, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the City may inquire into the qualifications of the prospective controlling party and the Grantee shall assist the City in any such inquiry. The City shall have **ninety (90) days** within which to approve or disapprove, by resolution, the proposed transfer of control. If the City fails to act within said **ninety (90) day** period, the application to transfer control or assign the Franchise shall be deemed to be granted.

(B) Approval of such transfer shall be expressly conditioned upon full compliance with the material terms of the Franchise and this Article. The transferee shall agree in writing to comply with all provisions of this Article and the Franchise agreement.

(C) For the purpose of this Section, the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of affiliated persons of **twenty-five percent (25%)** of the voting shares of the Grantee.

8-1-8 **AUTHORITY GRANTED BY THE FRANCHISE.**

(A) The Grantee of any Franchise granted pursuant to the provisions of this Article shall, subject to the conditions and restrictions set out in this Article, be authorized to construct or have constructed, operate, and maintain a Cable Television System, and to engage in the business of providing Cable Television Service in the City as defined herein and in the Franchise and for that purpose to erect, install, construct, repair, replace, reconstruct and maintain such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the Cable Television System; provided, however, that before any pole, wire, or other thing mentioned above which is necessary and appurtenant to the Cable Television System is placed on or within any Street, the required permits to do so must be obtained by the Grantee from the City; and, provided further, that before any such construction is commenced, the plans and specifications thereof must be approved in writing by the City which approval is hereby deemed given. It shall be unlawful for any telephone, telegraphy, or power company or any other public utility company or person to lease or otherwise make available to any person, any poles, lines, facilities, equipment, or other property for use in connection with the operation of a Cable Television System or the provision of Cable Television Service, unless such other person holds a valid Franchise granted pursuant to the provisions of this Article.

(B) The authority granted to a Grantee pursuant to the provisions of this Article is not and shall not be deemed to be an exclusive right or permission. The City expressly reserves the right to grant **one (1)** or more non-exclusive Franchises to operate a Cable Television System to other persons for the entire Franchise area at any time under the same substantive terms and conditions as apply to the existing Grantee. No such additional Franchise granted by the City shall in any way affect the obligations of any other Grantee.

(C) If the City grants an additional Franchise under this Article which contains terms deemed more favorable by any existing Grantee, said existing Grantee may elect to incorporate said terms or provisions into its existing Franchise upon notice to the City.

8-1-9 **FRANCHISE FEE.**

(A) Because the City finds that the administration of a Franchise granted pursuant to this Article imposes upon the City additional regulatory responsibility and expense, a Grantee of any Franchise hereunder shall pay to the City, within **forty-five (45) days** after the end of the **second (2nd)** and **fourth (4th) quarter** of its fiscal year, which is currently defined to be **June 30** and **December 31**, a sum equal to **three percent (3%)** of its Basic Revenues. This fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state, or local law. This fee shall be deemed to reimburse the City for all costs of regulating the Cable Television System of the Grantee and shall cover the expense of all regulatory requirements including, but not limited to, any performance testing required by the City under the terms of this Article and any renewal or transfer procedures arising hereunder.

(B) Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable under this Article or for the performance of any other obligations hereunder.

8-1-10 LIMITATIONS OF FRANCHISE.

(A) In addition to the limitations otherwise herein appearing, the Franchise is subject to the limitation that Grantee shall at all times during the life of any Franchise hereunder be subject to the lawful exercise of its police power by the City and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the City has adopted or shall adopt applying to the public generally and shall be subject to all laws of the State of Illinois and the United States.

(B) Time shall be of the essence in any Franchise granted hereunder. The Grantee shall not be relieved of its obligations to comply promptly with a provision of this Article by the failure of the City to enforce compliance. Failure of the City to enforce any breach by the Grantee shall not constitute a waiver by the City.

(C) Any poles, cable, electronic equipment or other appurtenances of the Grantee to be installed in, under, over, along, across or upon a Street shall be so located so as to cause minimum interference with the rights of other users of the Streets or of property owners who adjoin any of the streets.

(D) In the event of disturbance of any Street, other public property, or private property by Grantee, it shall, at its own expense and using reasonable efforts, replace and restore property to the condition existing before the work was done.

(E) Grantee shall contract, maintain and operate the Cable Television System so as to cause minimum inconvenience to the general public. All excavations shall be properly guarded and protected. All excavations shall be filled and the surface restored promptly after completion of the work at Grantee's sole cost and expense. The Grantee shall at all times comply with all excavation ordinances of the City.

(F) The Grantee shall, upon reasonable notice from any person holding a building moving permit issued by the City, temporarily alter its facilities to permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and the Grantee shall have the right to request payment in advance. For the provisions of this Article, reasonable notice shall be construed to mean at least **seventy-two (72) hours** prior to the move.

(G) If, at any time, in case of fire or disaster in the City it shall become necessary in the judgment of the Superintendent of Utilities or designee to cut or move any of the wires, cable amplifiers, appliances, or appurtenances thereto of the Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee at no expense to the City.

8-1-11 ADDITIONAL CITY RIGHTS IN FRANCHISE.

(A) The City reserves the right upon reasonable notice to require the Grantee at his expense to protect, support, temporarily disconnect, relocate or remove from the Streets any property of the Grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies. Reasonable notice for this provision of the Article shall be construed to mean at least **thirty (30) days** except in the case of emergencies where no specific notice period shall be required.

(B) In the event of the failure by the Grantee to complete any work required by paragraph (A) above or any work required by City law or ordinance within the time established, the City may cause such work to be done and the Grantee shall reimburse the City the reasonable costs thereof within **thirty (30) days** after receipt of an itemized list of such cost.

(C) The City reserves the right, in the event of an emergency or disaster, to require the Grantee to make available to the Mayor, upon request, Grantee's audio override, if any, and Community Channel, if any, at no cost, for emergency use during such emergency or disaster period.

(D) The City reserves the right during the life of any Franchise hereunder to inspect, upon reasonable notice, at all reasonable hours, the Grantee's contracts and engineering records dealing with gross revenues and technical service provided by Grantee, provided that information pertaining to service to individual subscribers will be available pursuant to Section 631 of the Cable Act.

(E) The City reserves the right during the life of any Franchise granted hereunder, to install and maintain free of charge upon the poles or in the conduits of a Grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operation of the Grantee.

(F) The City reserves the right during the life of any Franchise granted hereunder, to reasonably inspect all construction or installation work performed subject to the provisions of this Article to ensure compliance with the terms of the Article. At its own expense, the City may also perform measurements upon and randomly inspect any portion of a Grantee's system to ensure compliance with the technical standards under which the Grantee is authorized to operate provided that such measurement or inspection does not interfere with the operation of the Cable Television System.

(G) At any time during the term of the Franchise, but no more than once annually, and upon **thirty (30) days** notice, the City reserves the right to hold a public hearing for the expressed purpose of reviewing the general and specific performance of the Grantee with regard to all Franchise provisions contained herein or in any Franchise Agreement issued hereunder.

(H) Any right or power in or duty impressed upon any officer, employee, department, or board of the City shall be subject to transfer by the City Council by law to any other officer, employee, department or board of the City. The City reserves all rights not specifically granted herein, and the enumerations of the rights herein shall not be construed to be a limitation of any right or power the City may otherwise have.

8-1-12 RESERVED. (Ord. No. 2011-3; 01-18-11)

8-1-13 **SERVICE AREA.**

(A) Subject to the provisions of paragraph (B) of this Section, the Grantee of any Franchise hereunder shall offer Cable Television Service to all potential Residential Subscribers who are located within the City limits as of the effective date of the Franchise. Subject to the provisions of paragraph (B) of this Section, the Grantee shall offer Cable Television Service to all potential Residential Subscribers within any area described in any annexation ordinance passed after the passage of this Article, within **one (1) year** of the effective date of the said annexation ordinance.

(B) The Grantee of any Franchise hereunder shall offer Cable Television Service to all potential Residential Subscribers located within **one hundred fifty (150) feet** of Grantees feeder cable where there exists a minimum density of **thirty-five (35) dwelling** units per mile. The Grantee may elect, but has no obligation, to offer Cable Television Service to areas not meeting the above standard.

(C) In the event the continued use of a Street is denied for any reasonable reason related to public health, safety or welfare, the Grantee will make every reasonable effort to provide Residential Service over alternate routes.

8-1-14 **TIME FOR PROVIDING SERVICE.** Unless otherwise authorized by the City Council, all areas meeting the requirements of **Section 8-1-12(B)** subsequent to the effective date of a Franchise granted pursuant to this Article shall be offered Cable Television Service within **twelve (12) months** of the effective date of the annexation.

8-1-15 CONDITION OF USE OF STREETS.

(A) The poles used for a distribution system shall be, to the extent possible, those erected and maintained by either a power company or a telephone company, or both. Notwithstanding any other provisions of this Article, no poles except replacements for existing poles shall be erected by or for the Grantee, in any Street, except when necessary to service a subscriber. Any poles, wires, cable or other facilities to be constructed or installed by Grantee on or within the Streets shall be constructed or installed only at such locations and depths and in such a manner as to comply with all State statutes and rules and regulations of the State of Illinois, the City, and any other agency of competent jurisdiction. Grantee shall keep in full force and effect a pole attachment agreement with the Grantor, said agreement to have a concurrent term with the ordinance agreement. Any current pole rental agreement between the Grantee and Grantor will not be superceded by this Article.

(B) The installation of trunk and distribution lines, including service drops to subscribers, shall be made underground in areas where both telephone and power lines are underground or are placed underground and the service poles are removed.

8-1-16 SYSTEM DESIGN AND CHANNEL CAPACITY. The Cable Television System shall be constructed and operated in a manner as set forth in this Article. The Cable Television System shall have a capacity of at least 300 MHz bandwidth and shall be constructed and operated in a manner as set forth in this Article.

8-1-17 INTERCONNECTION. Where economically reasonable and technically possible, Grantee may connect its system with other cable systems adjoining it so as to provide the widest possible combination of programming in the most efficient manner.

8-1-18 SERVICE TO GOVERNMENT BUILDINGS. The Grantee shall, upon request therefore, provide and furnish without charge to all public educational institutions and governmental buildings within the Service Area and within **one hundred fifty (150) feet** of Grantee's existing distribution cable, **one (1)** service outlet. The institutions shall be entitled to receive, free of charge, the Grantee's basic cable television service.

8-1-19 PARENTAL CONTROL DEVICES. The Grantee shall at all times have available parental control devices for the purpose of controlling premium television programming on individual subscriber television sets. The Grantee shall have the right to charge reasonable fees for the use of such devices.

8-1-20 CONSTRUCTION STANDARDS.

(A) Grantee shall construct, install, operate and maintain the Cable Television System in a manner consistent with all laws, ordinances, construction standards, governmental requirements and the construction and operational standards contained in this Article and any Franchise Agreement.

(B) All installation and maintenance of electronic equipment shall be of a permanent nature, durable and installed in accordance with the applicable sections of the National Electric Safety Code, the National Electrical Code of the National Bureau of Fire Underwriters and all State and local codes where applicable.

(C) Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable local or State codes and regulations.

(D) All construction methods and standards shall conform to standard industry practices at the time of construction, and as specified herein and in any Franchise Agreement.

(E) Any contractor used by a Grantee for construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under the laws of the State to which the contractor is licensed, and all local ordinances.

(F) The City does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the locations shall be verified by excavation.

8-1-21 OPERATIONAL STANDARDS AND PERFORMANCE MONITORING.

(A) The Cable Television System shall be operated in compliance with the service standards established by the National Cable Television Association.

(B) The Grantee shall put, keep and maintain all parts of the system in good condition throughout the entire Franchise term.

(C) The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

- (1) Service repair response time to a subscriber outage call shall not exceed **forty-eight (48) hours** except on weekends and holidays or in circumstances beyond the reasonable control of the Grantee; and
- (2) Trained technicians shall respond on a **twenty-four (24) hour day seven (7) days** a week whenever **ten (10)** or more verifiable subscriber complaints of outage are received.
- (3) The Grantee shall have a local, publicly listed telephone number. The Grantee shall provide the means to accept complaint calls **twenty-four (24) hours** a day, **seven (7) days** a week.

8-1-22 **RATES AND CHARGES.** Grantee shall file with the City schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. Grantee shall have the right to pass through to its subscribers all taxes and fees related to the provision of Cable Television Service and Grantee shall have the right to itemize all such taxes and fees on the customer bills. The City Council reserves the right and authority to comment, whether publicly or in private, regarding Grantee's schedule or rates and charges.

8-1-23 **RIGHTS OF INDIVIDUALS.**

(A) The Grantee shall not deny service, deny access, or otherwise discriminate against subscribers or other users, or any citizen on the basis of race, color, religion, national origin, sex or sexual orientation. The Grantee shall comply at all times with all other applicable federal, state and local laws and regulations, and all executive and administrative orders relating to nondiscrimination.

(B) Grantee shall comply with the individual privacy provisions contained in the Cable Act.

8-1-24 **LIABILITY AND INDEMNIFICATION.**

(A) The Grantee shall, at its sole cost and expense, fully indemnify, defend and save harmless the City, its officers, councils, commissions, and employees against any and all actions, liability, judgments, executions, claims or demands whatsoever by others, including, but not limited to, copyright infringement and all other damages arising out of the installation or operation or maintenance of the Cable Television System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Article and any Franchise granted hereunder. Grantee shall further indemnify and save the City harmless against all liabilities to others arising out of such construction, operation and maintenance, including, but not limited to, any liability for damages by reason of, or arising out of, any failure by Grantee to secure licenses from the owners, authorized distributors or licensees of programs to be transmitted or distributed by the Grantee, and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees, arising out of the Grantee's exercise or enjoyment of this Franchise, irrespective of the amount of any comprehensive liability policy required hereunder.

(B) The foregoing liability and indemnity obligations of the Grantee pursuant to this Section shall not apply to damages occasioned by acts of the City, its agents or employees, nor shall it be deemed a waiver of any defense of contributory negligence which the Grantee may assert against the City, its agents or employees.

8-1-25 **INSURANCE.**

(A) At the time of filing written acceptance of the Franchise, the Grantee shall file with the City Clerk Certificates of Insurance for the following:

- (1) A general comprehensive public liability insurance policy, indemnifying, defending and saving harmless the City, its officers, councils, commissioners, agents or employees from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the Grantee under the Franchise granted hereunder with a minimum liability of **Five Hundred Thousand Dollars (\$500,000.00)** for personal injury or death of any **one (1) person**, and **One Million Dollars (\$1,000,000.00)** for personal injury or death of any **two (2)** or more persons in any **one (1)** occurrence. Renewal certificates of such insurance shall be promptly forwarded to the City Clerk as such renewals are made, and such insurance shall be constantly kept in force and effect during the term of this Franchise.
- (2) Property damage insurance indemnifying, defending and saving harmless the City, its officers, councils, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of a Grantee under the Franchise granted hereunder with a minimum liability of **Five Hundred Thousand Dollars (\$500,000.00)** for property damage to any **one (1) person** and **One Million Dollars (\$1,000,000.00)** for property damage to **two (2)** or more persons in any **one (1)** occurrence.

(B) Such insurance as provided for in this Section shall be provided at the Grantee's sole cost and expense and be kept in full force and effect by the Grantee during the existence of the Franchise and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of the Cable Television System as defined in the Franchise.

(C) All of the foregoing insurance contracts shall be issued and maintained by companies authorized to do business in the State of Illinois and they shall require **thirty (30) days** written notice of any cancellation or reduction in coverage to both the City and the Grantee herein.

8-1-26 FRANCHISE BOND.

(A) At the time of filing its written acceptance of the Franchise, the Grantee shall file with the City Clerk and at all times thereafter maintain in full force and effect for the term of the Franchise, at the Grantee's sole cost and expense, a Franchise bond by a company authorized to do business in the State of Illinois and in a form approved by the City Attorney, in the amount of **Ten Thousand Dollars (\$10,000.00)**, conditioned upon the faithful performance of Grantee of all the terms and conditions of its Franchise for the term thereof.

(B) The rights to the City with respect to the bond are in addition to all other rights of the City, whether reserved by this Article or authorized by law, and no action, proceeding or exercise of right with respect to such bond shall affect any other right the City may have.

8-1-27 FILING AND COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall maintain copies of all petitions, applications and communications, relative to any Franchise granted pursuant to this Article transmitted by the Grantee to, or received by the Grantee from all federal and state regulatory commissions or agencies having competent jurisdiction to regulate the operations of any Cable Television System authorized hereunder. Said copies shall be available for inspection by the City during regular business hours of the Grantee.

8-1-28 REPORTS. The Grantee shall file annually with the City Clerk not later than **four (4) months** after the end of its fiscal year during which it accepted a Franchise hereunder and within **four (4) months** after the end of each subsequent fiscal year, a letter containing the amount of the gross revenues for the previous fiscal year certified by Grantee's controller or chief financial officer.

8-1-29 FRANCHISE RENEWAL. Upon completion of the term of any Franchise granted pursuant to this Article, the procedures for Franchise renewals as established by the Cable Act will apply.

8-1-30 FRANCHISE REQUIRED. It shall be unlawful for any person to construct, operate or maintain a Cable Television System in the City unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid Franchise granted pursuant to this Article. It shall also be unlawful for any person to provide Cable Television Service in the City unless such person shall have first obtained and shall currently hold a valid Franchise granted pursuant to the provisions of this Article. All Franchises granted by the City pursuant to this Article shall contain the same substantive terms and conditions.

8-1-31 UNAUTHORIZED CONNECTIONS OR MODIFICATIONS.
(A) It shall be unlawful for any person without the expressed consent of the Grantee, to make any connection, extension, or division whether physically, acoustically, inductively, electronically, or otherwise with or to any segment of the Cable Television System for any purpose whatsoever.
(B) It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of a Franchised Cable Television System for any purpose whatsoever.

(C) Any person found guilty of violating this Section may be assessed a fine not to exceed **Five Hundred Dollars (\$500.00)** or sentenced to **thirty (30) days** in jail, or both.

8-1-32 **NOTICE.** Whenever under the terms of the Franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served on the City, it shall be delivered either by first class U.S. Mail or by handing such notice to the City Clerk at the City municipal offices, and if to Grantee, then by delivering by first class U.S. Mail or by handing such notice to such officer at such address as Grantee shall from time to time direct. The original name and address of the officer on behalf of Grantee shall be included in Grantee's acceptance of the Franchise.

8-1-33 **NON-EXCLUSIVE.** No Franchise granted pursuant to this Article shall be an exclusive franchise.

8-1-34 **SEVERABILITY.** If any section, sentence, clause or phrase of this Article is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remainder of this Article, and any portions in conflict are hereby repealed.

8-1-35 **CAPTIONS.** The captions to sections are inserted solely for convenience and shall not affect the meaning or interpretation of the Article.

(Ord. No. 95-9; 09-05-95)

CHAPTER 13

FAIR HOUSING CODE

13-1-1 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.

13-1-2 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.

13-1-3 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.

13-1-4 **PENALTY.** Any person who violates any of the provisions of this Code shall be subject to a fine as provided in this Code.

(See ILCS Sec 5/11-11.1-1)

CHAPTER 14

FREEDOM OF INFORMATION PROCEDURES

14-1-1 **DEFINITIONS.** For the purposes of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Copying". The reproduction of any public record by means of any photographic, electronic, mechanical, or other process, device or means.

"Freedom of Information Act". The Illinois Freedom of Information Act, 5 ILCS Sec. 140/1.1 et seq.

"Person". Any individual, corporation, partnership, firm, organization or association, acting individually or as a group.

"Public Record". All records, reports, forms, writings, letters, memorandums, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information, and all other documentary materials, regardless of physical form or characteristics, having been or being prepared, used, received, possessed, or under control of the City.

14-1-2 **POLICY.** It is declared to be the public policy of the City that all persons are entitled to full and complete information regarding the affairs of the City. The official acts and policies of the public officials and public employees of the City shall be consistent with the terms of this Chapter.

14-1-3 **INDIVIDUAL PRIVACY PROTECTED.** This Chapter is not intended to be used to violate individual policy, nor for the purpose of furthering a commercial enterprise, or to disrupt the duly undertaken work of the City.

14-1-4 **PUBLIC RECORDS AVAILABLE.** The City shall make available to any person for inspection or copying all public records, as provided in the Freedom of Information Act.

14-1-5 **REQUESTS TO BE IN WRITING.** All requests for inspection or copying of public records shall be in writing and shall be addressed to the Clerk. The requestor shall include the following information in any request for public records:

- (A) The requestor's full name, mailing address and telephone number at which the requestor can be reached during normal business hours.
- (B) A description of the records sought, being as specific as possible.
- (C) A statement as to whether the request is for inspection, copying or both.

14-1-6 FEES.

(A) The City hereby establishes and shall charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the City to copy records. Such fees exclude the costs of any search for and review of the record, and shall not exceed the actual cost of reproduction and certification, unless otherwise provided by state statute. The charge for copying shall be **Twenty-Five Cents (\$0.25)** per page for photocopies and for computer printouts. In the event materials must be reproduced by copy services or by the City Engineer (e.g., large plan sheets), the requestor shall be responsible for the actual charges.

(B) Documents shall be furnished without charge or at a reduced charge where the City determines that waiver or reduction of the fee is in the public interest because furnishing information can be considered as primarily benefiting the general public. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. In setting the amount of the waiver or reduction, the City may take into consideration the amount of materials requested and the cost of copying them.

14-1-7 TIME LIMIT FOR COMPLIANCE WITH REQUEST. The City shall either comply with or deny a request for public records within **seven (7) working days** after its receipt. Denials shall be in writing and in accordance with **Section 14-1-11**.

14-1-8 EXTENSION OF TIME LIMIT; NOTICE.

(A) The time limit prescribed in **Section 14-1-7** may be extended in each case for not more than **seven (7) additional working days** for any of the following reasons:

- (1) The requested records are stored in whole or in part at other locations other than the office having charge of the requested records.
- (2) The request requires the collection of a substantial number of specified records.
- (3) The request is couched in categorical terms and requires an extensive search for the records responsive to it.
- (4) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under the terms of the Illinois Freedom of Information Act or should be revealed only with appropriate deletions.

- (5) The request for records cannot be complied with by the City within the time limits prescribed by the foregoing paragraph without unduly burdening or interfering with the City.
- (6) The requested records have not been located in the course of routine search and additional efforts are being made to locate them.
- (7) There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among **two (2)** or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

(B) When additional time is required for any of the above reasons, the Clerk shall notify the person making the request, by letter, within the time limits specified in his Section, of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming. In no instance may the delay in processing last longer than **seven (7) working days**. A failure to render a decision within **seven (7) working days** shall be considered a denial of the request.

14-1-9 UNDULY BURDENSOME REQUEST.

(A) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the City, there is no method of narrowing the request, and the burden on the City strongly outweighs the public interest in the information. If the City responds to a categorical request by stating that compliance would unduly burden its operation, it shall do so in a writing signed by the Clerk specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operation of the City.

(B) After receipt of this response in writing, the person making the request shall have an opportunity to reduce the request to manageable proportions. If the person making the request fails to reduce the request to manageable proportions, the response of the City shall be treated as a denial of the request information.

14-1-10 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING. Information exempted by **Section 14-1-7** of the Freedom of Information Act shall be exempt from inspection and copying. If a record contains both exempt and nonexempt information, the exempt information shall be deleted and the remainder of the record made available for inspection and copying.

14-1-11 NOTICE OF DENIAL OF REQUEST; APPEALS.

(A) The Clerk, when denying a request for public record, shall notify the requestor, by letter, of the decision to deny the information, and the reason for the denial. Each notice of denial by the Clerk shall inform the person or his or her right to appeal to the Mayor in accordance with **Section 14-1-10** of the Freedom of Information Act. When a

request is denied on the grounds that the records are exempt under the provisions of this Chapter, the notice of denial shall specify the exemption claimed to authorize the denial and briefly explain how the exemption applies to the specified records withheld.

(B) A requestor may appeal a denial of a request for public records to the Mayor. All appeals shall be in writing, shall be addressed to the Mayor in an envelope clearly marked "FOIA APPEAL", and shall include a copy of the original request, a copy of the denial or a statement that the City failed to respond within **seven (7) working days**; and a written statement setting forth the reasons the requestor believes the appeal should be granted.

(C) The Mayor shall respond in writing to an appeal within **seven (7) working days** of receipt thereof. Failure to respond shall be considered a denial of the appeal. If the Mayor denies an appeal in whole or in part, the requestor shall be informed of his or her rights to judicial review under **Section 14-1-11** of the Freedom of Information Act.

14-1-12 GRANTING OF REQUEST; PROCEDURE FOR INSPECTION.

When a Freedom of Information request is granted, the documents will be made available for inspection at the City Hall during regular business hours. Copies shall be made upon request as set forth in **Section 14-1-6**.

14-1-13 WRITTEN REQUEST NOT REQUIRED FOR CERTAIN DOCUMENTS.

The following documents shall be made available for inspection and copying without a written request; however, the requestor shall contact the Clerk or Deputy Clerk in advance to set a mutually convenient time. These documents, if copied, shall be subject to the copying fee set forth in **Section 14-1-6**.

(A) Ordinances and written resolutions.

(B) The minutes of the City Council, not including executive session minutes.

(C) Any personnel code, building code, other technical code, or any other regulation of the City adopted by the City, whether by ordinance, resolution or otherwise.

14-1-14 DISSEMINATION OF INFORMATION ABOUT PUBLIC BODIES.

The City shall prominently display at the City Hall, make available for inspection and copying without charge, and shall send through the mail if requested, each of the following:

(A) A brief description of itself, which will include, but not be limited to a short summary of its purpose, a block diagram giving its functional subdivisions, 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 public body is required to report and be answerable for its operations; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating by titles and business addresses those employees to whom requests for public records should be directed, and any fees allowable under **Section 14-1-6**.

14-1-15 **LIST OF CATEGORIES OF RECORDS.** As to public records prepared or received after the effective date of this Chapter, the City Clerk shall maintain and make available for inspection and copying a reasonably current list of all types or categories of records under its control. The list shall be unreasonably detailed in order to aid persons in obtaining access to public records pursuant to this Chapter. The City Clerk shall furnish upon request a description of the manner in which public records stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format.

CHAPTER 16

GARBAGE

ARTICLE I – GENERAL REGULATIONS

16-1-1 **DEFINITIONS.** All terms contained herein shall have the meaning as given in the "*Waste Collection Agreement*", between the City of Elmwood and G & O Disposal, Ltd., which is attached hereto as "Exhibit A" and is herein by this reference.

16-1-2 **GENERAL.**

(A) **Method of Disposition.** The exclusive method of Residential Waste collection and disposal services to owners and residents of single-family dwellings within the City shall be curbside collection and disposal provided by G & O Disposal, Ltd., and the exclusive method of recyclable materials collection and disposal services to owners and residents of single-family dwellings within the City shall be curbside collection and disposal provided by G & O Disposal, Ltd., all of which shall be conducted in the manner and to the extent provided for in the "*Waste Collection Agreement*", between the City and G & O Disposal, Ltd., which is attached hereto as Exhibit "A" and is hereby incorporated herein by this reference.

(B) **Service Not Provided.** Residential waste or recyclable material collection and/or disposal services shall not be provided to any commercial, manufacturing, industrial, institutional or business enterprise. Such services shall also not be provided to owners or residents of multi-family structures containing **three (3)** or more dwelling units. In these cases, collection and disposal services shall be by private agreement with a solid waste hauler and such agreements shall comply with **Section 16-1-3** and **Section 16-1-5** hereof.

(C) **Time and Location.** No person shall place any residential waste and/or recyclable material containers on any curbside earlier than **4:00 P.M.** on the day prior to the regular and customary collection schedule, nor any later than **6:00 A.M.** on the day of residential waste and/or recyclable material pickup. Such containers are to be removed from the curbside not later than **12:00 Midnight** on the day that they are emptied. At all other times residential waste and/or recyclable material containers shall be stored within the rear or side yard out of public's plain view, except durable plastic bags, which shall be stored in an enclosed building until lawfully set out on the curbside for collection in conformance with the requirements of this Chapter.

(D) **Rummaging.** It shall be unlawful for any person or business, other than G & O Disposal, Ltd., to collect, obtain, possess, rummage through or pick up any items placed on the curbside of a single-family dwelling for collection.

16-1-3 **MOTOR VEHICLE REQUIREMENTS.**

(A) All vehicles used for hauling residential waste or waste from any commercial, manufacturing, industrial, institutional or business enterprise or multi-family structures containing **three (3)** or more dwelling units shall be maintained in good repair and clean condition and shall be completely emptied at the end of each day of use.

(B) Any vehicle, public, private, for hire, or under contract, used for hauling residential waste or waste from any commercial, manufacturing, industrial, institutional or business enterprise or multi-family structures containing **three (3)** or more dwelling units, other than snow, logs and limbs, shall have a metal body with leakproof sides, bottom and front, and the rear shall be equipped with an endgate the full height of the opening. There shall be a cover of sufficient size that completely covers a load and prevents any loss by blowing or spilling, securely anchored and tied. Loads of brush and similar material need not be covered, but shall be securely tied to the vehicle.

(C) No person shall haul residential waste or waste from any commercial, manufacturing, industrial, institutional or business enterprise or multi-family structures containing **three (3)** or more dwelling units in a motor vehicle over any public street or highway in the City in such a manner that the contents thereof leak or otherwise escape from such vehicle.

(D) Residential waste or waste from any commercial, manufacturing, industrial, institutional or business enterprise or multi-family structures containing **three (3)** or more dwelling units collected for disposal shall be deposited at a proper lawful site designated and maintained for such purpose under the laws of the State of Illinois.

16-1-4 ESTABLISHING BILLING.

(A) **Residential Waste and Recyclable Materials Rates and Charges.**

All single-family dwellings located within the City limits, shall have added to the monthly water and sewer bills issued by the City, as follows:

1 st Year (2017):	\$16.63 per single-family dwelling per month
2 nd Year (2018):	\$17.07 per single-family dwelling per month
3 rd Year (2019):	\$17.52 per single-family dwelling per month
4 th Year (2020):	\$17.99 per single-family dwelling per month
5 th Year (2021):	\$18.47 per single-family dwelling per month
6 th Year (2022):	\$18.96 per single-family dwelling per month

for financing the collection and disposal of residential waste and recyclable materials, which rate includes a **Two Dollar (\$2.00)** surcharge to be paid to the City for the administration and billing of said service. Such rates and charges shall be billed monthly in advance of the service, starting with the water and sewer billing cycle beginning **January 15, 2017**, and shall be due and payable at the time of payment for the water and sewer charges on such bill and continuing every month thereafter as long as water and sewer service is being provided to the single-family dwelling.

(Ord. No. 2017-01; 01-05-17)

(B) **Late Payment Penalty.** In the event the residential waste and recyclable materials collection and disposal rates and charges that are added to the City water and sewer bills are not paid within the time specified on such bill, a late payment penalty fee in the amount of **ten percent (10%)** of the residential waste and recyclable materials collection and disposal rates and charges shall be added to and collected with the next bill.

(C) **Disconnection of Water.** In the event the residential waste and recyclable materials collection and disposal rates and charges, including the late payment penalty fee, are not paid within the time specified on the water and sewer bill, the City is authorized to discontinue water service to such premises in accordance with the terms of **Chapter 38, Article II** of the Revised Code of the City and to discontinue collection of residential waste and recyclable materials to such single family dwelling.

(D) **Lien.** In the event that the rates and charges for residential waste and recyclable materials collection and disposal is not paid within **sixty (60) days** of when services are rendered, the Clerk may file a lien as provided in **Chapter 38, Article II** of the Revised Code of the City.

16-1-5 PENALTIES. Any person, firm, corporation or organization who violates, neglects, or refuses to comply with any of the provisions of this Chapter, shall be fined not less than **Twenty-Five Dollars (\$25.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for the first offense, not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for the second offense, and not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each subsequent offense, a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. Any person desiring to plead guilty to an offense may do so by signing the appropriate form and by paying the minimum authorized fine directly to the City Clerk.

(Ord. No. 2011-21; 11-01-11)

CHAPTER 21

LIQUOR

ARTICLE I – GENERALLY

21-1-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

"ALCOHOL" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(See 235 ILCS Sec. 5/1-3.05)**

"BAR" means premises or part thereof where the principal business is the retail sale of alcoholic liquor for consumption on the premises or in that part thereof primarily used for such purposes.

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(See 235 ILCS Sec. 5/1-3.04)**

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly

files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(See 235 ILCS Sec. 5/1-3.24)**

"CORPORATION" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

"DISTILLED SPIRITS". See "Spirits".

"EVENT" means a single theme. **(Rules and Regulations 100.10(o))**

"HOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(See 235 ILCS Sec. 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 be deemed to refer to the Mayor unless otherwise provided.

"MEAL" means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(See 235 ILCS Sec. 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. **(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. **(See 235 ILCS Sec. 5/1-3.23)**

"RETAILER" means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(See 235 ILCS Sec. 5/1-3.17)**

"SALE" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(See 235 ILCS Sec. 1-3.21)**

"SELL AT RETAIL" and "SALE OF RETAIL" refer to any mean sales for use or consumption and not for resale in any form. **(See 235 ILCS Sec. 5/1-3.18)**

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(See 235 ILCS Sec. 5/1-3.30)**

"SPECIAL EVENTS RETAILER" means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(See 235 ILCS Sec. 5/1-3.17.1)**

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(See 235 ILCS Sec. 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. **(See 235 ILCS Sec. 5/1-3.22)**

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(See 235 ILCS Sec. 5/1-3.03)**

ARTICLE II - LICENSES

21-2-1 LICENSE REQUIRED. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(See 235 ILCS Sec. 5/4-1)**

21-2-2 APPLICATIONS. The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the City Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

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

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

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **one (1) member** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the Mayor and **one (1) copy** given to the Chief of Police. The Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor, and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(See 235 ILCS Sec. 5/7-1)**

21-2-3 EXAMINATION OF APPLICANT. The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(See 235 ILCS Sec. 5/4-5)**

21-2-4 PROHIBITED LICENSEES. No retail license shall be issued by the Mayor to the following:

- (A) **Reserved. (Ord. No. 2019-02; 02-05-19)**
- (B) A person who **is not twenty-one (21) years** of age;
- (C) A person who has been convicted of a felony under any federal or state law if the Mayor determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- (D) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (E) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;

- (F) A person whose license has previously been revoked for cause;
- (G) A person who, at the time of the application for renewal for any license issued hereunder, would not be eligible for such license upon first application;
- (H) 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;
- (I) A corporation, if any officer, manager or director thereof or any stockholder owning in the aggregate more than **five percent (5%)** of such corporation, would not be eligible to receive a license hereunder for any reason other than the requirement for citizenship and residence;
- (J) A corporation unless it is incorporated in the State of Illinois, or unless it is a foreign corporation which is qualified under the "**Business Corporation Act of 1983**" to transact business in Illinois;
- (K) 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;
- (L) Any person, association, or corporation not eligible for a state retail liquor license;
- (M) A person who is not of good character and reputation in the community in which he resides;
- (N) 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 Code or has forfeited his bond to appear in court to answer charges for any such violation;
- (O) A person who does not own the premises for which a license is sought, or does not rent nor have a lease thereon for the full period for which the license is to be issued;
- (P) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of a city council or commission, any president of a village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which 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 the Mayor.
- (Q) A person who is not a beneficial owner of the business to be operated by the licensee;
- (R) A person who has been convicted of a gambling offense as prescribed by any of **subsections (a)(3) through (a)(11) of Section 28-1.1 of, or as proscribed by Section 28-3 of the "Criminal Code of 1961", approved July 28, 1961**, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;
- (S) A person to whom a federal wagering stamp has been issued by the federal government for the current tax period; except those persons who are eligible to receive a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(T) 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 stamp or federal wagering stamp by the federal government for the current tax period;

(U) 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;

(V) Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period. **(See 235 ILCS Sec. 5/6-2)**

21-2-5 TERM; FEE SUBMITTED IN ADVANCE. Retail liquor licenses issued under this Chapter shall be valid for **six (6) month periods** upon the payment of the license fee as hereinafter set forth unless sooner revoked or suspended. The **six (6) month periods** shall be from **May 1st to October 31st** and **November 1st to April 30th** respectively of the following year.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Mayor as hereinbefore provided. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the 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. **(See 235 ILCS Sec. 5/4-1)**

21-2-6 CLASSIFICATION - FEE – LIMITATION - HOURS. Such licenses shall be, and are hereby divided into **six (6)** classes, to-wit:

(A) **Class "A" License,** which shall authorize the retail sale, on the premises specified, of alcoholic liquor, for consumption on the premises, as well as other retail sales of such liquor, only on Monday through Saturday, during the hours between **6:00 A.M.** and **1:00 A.M.** of the following day. It shall be unlawful for the holder of a Class "A" license to sell, or offer for sale, any alcoholic liquor between the hours of **1:00 A.M.** and **6:00 A.M.** The semi-annual fee for such license shall be **Four Hundred Dollars (\$400.00).**

(B) **Class "B" Licenses**, which shall authorize the retail sale, on the premises specified, of alcoholic liquor, for consumption on the premises, as well as other retail sales of such liquor, only on Monday through Saturday, during the hours between **6:00 A.M.** and **2:00 A.M.** of the following day. It shall be unlawful for the holder of a Class "B" license to sell, or offer for sale, any alcoholic liquor between the hours of **2:00 A.M.** and **6:00 A.M.** The semi-annual fee for such license shall be **Four Hundred Fifty Dollars (\$450.00)**.

(C) **Class "C" Licenses**, which shall authorize the retail sale, on the premises specified, of alcoholic liquor, only for consumption off the premises, only on Monday through Saturday, during the hours between **6:00 A.M.** and **1:00 A.M.** of the following day, and only on Sunday during the hours between **12:00 Midnight** and **1:00 A.M.** and during the hours between **6:00 A.M.** and **12:00 Midnight**. It shall be unlawful for the holder of a Class "C" license to sell, or offer for sale, any alcoholic liquor between the hours of **1:00 A.M.** and **6:00 A.M.** on Monday through Saturday and between **1:00 A.M.** and **6:00 A.M.** on Sunday and between the hours of **12:00 Midnight** and **6:00 A.M.** of the following day. The semi-annual fee for such license shall be **Four Hundred Dollars (\$400.00)**. (Ord. No. 2015-02; 04-07-15)

(D) **Class "D" Licenses**, which shall authorize the retail sale, on the premises specified, of beer and wine only, for consumption on the premises, only on Monday through Saturday, during the hours between **6:00 A.M.** and **1:00 A.M.** of the following day, and only on Sunday during the hours between **12:00 Midnight** and **1:00 A.M.** and during the hours between **6:00 A.M.** and **9:00 P.M.** It shall be unlawful for the holder of a Class "D" license to sell, or offer for sale, any alcoholic liquor between the hours of **1:00 A.M.** and **6:00 A.M.** on Monday through Saturday and on Sunday between the hours of **1:00 A.M.** and **6:00 A.M.** and between the hours of **9:00 P.M.** and **6:00 A.M.** of the following day. As a further condition of obtaining and maintaining a Class "D" license, the holder must operate a restaurant on the premises specified, in conjunction with the sale of beer and wine. The semi-annual fee for such license shall be **Four Hundred Dollars (\$400.00)**. (Ord. No. 2015-02; 04-07-15)

(E) **Class "E" License**, which shall authorize the retail sale, on the premises specified, of alcoholic liquor, for consumption on the premises, as well as other retail sales of such liquor, only on Monday through Saturday, during the hours between **6:00 A.M.** and **1:00 A.M.** of the following day, and only on Sunday during the hours between **12:00 Midnight** and **1:00 A.M.** and during the hours between **6:00 A.M.** and **8:00 P.M.** It shall be unlawful for the holder of a Class "E" license to sell, or offer for sale, any alcoholic liquor between the hours of **1:00 A.M.** and **6:00 A.M.** on Monday through Saturday and on Sunday between the hours of **1:00 A.M.** and **6:00 A.M.** and between the hours of **8:00 P.M.** and **6:00 A.M.** of the following day. The semi-annual fee for such license shall be **Five Hundred Dollars (\$500.00)**. (Ord. No. 2015-02; 04-07-15)

(F) **Class "F" License**, which shall authorize the retail sale, on the premises specified, of alcoholic liquor, for consumption on the premises, as well as other retail sales of such liquor, only on Monday through Saturday, during the hours between **6:00 A.M.** and **2:00 A.M.** of the following day, and on Sunday during the hours between **12:00 A.M.** and **2:00 A.M.** and during the hours between **6:00 A.M.** and **12:00 Midnight**. It shall be unlawful for the holder of a Class "F" license to sell, or offer for sale, any alcoholic liquor between the hours of **2:00 A.M.** and **6:00 A.M.** on Monday through Saturday and on Sunday between the hours of **2:00 A.M.** and **6:00 A.M.** and between the hours of **12:00 Midnight** and **6:00 A.M.** of the following day. The semi-annual fee for such license shall be **Five Hundred Fifty Dollars (\$550.00)**. (Ord. No. 2015-02; 04-07-15)

(G) **Class "G" License**, which shall authorize the retail sale by clubs, on the premises specified, of alcoholic liquor, for consumption on the premises, on Monday through Sunday, during the hours between **6:00 A.M.** and **2:00 A.M.** of the following day. It shall be unlawful for the holder of a Class "G" license to sell, or offer for sale, any alcoholic liquor

between the hours of **2:00 A.M.** and **6:00 A.M.** on Monday through Sunday. The semi-annual fee for such license shall be **Five Hundred Fifty Dollars (\$550.00)**.

(H) **Sunday Sales – Other Prohibitions.** It shall be unlawful for the holder of a Class "A" License to sell, or offer for sale, any alcoholic liquor between the hours of **1:00 o'clock A.M.** and **12:00 o'clock Midnight** on any Sunday, and the holder of a Class "B" License between the hours of **2:00 o'clock A.M.** and **12:00 o'clock Midnight** on any Sunday, unless such Sunday shall fall on any one of the following dates: January 1, July 4, or December 31; except that the City Council may, in a regularly scheduled meeting, upon motion, make an exception to the Sunday closing rule for a special occasion. It shall be unlawful to keep open for business, or to admit the public to any premises in or on which alcoholic liquor is sold at retail, during the hours within which the sale of such liquor is prohibited; provided that in the case of restaurants where the primary business conducted on the premises is the sale of food, and the sale of alcoholic liquor is incident to and complementary to such sale of food, and hotels and clubs, such establishments may be kept open during such hours, but no alcoholic liquor may be sold or offered for sale to the public during such hours. **(Ord. No. 2002-3; 09-03-02) (See 235 ILCS 5/4-1)**

21-2-7 NATURE OF LICENSE. A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **six (6) months** 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. **(See 235 ILCS Sec. 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

21-2-8 LIMITATION OF LICENSES.

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in territory annexed to the City during the remainder of the County-issued license; provided that after the expiration of such County-issued license existing at the time of annexation, all of the restrictions and contingencies contained herein shall then apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that

event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(See 235 ILCS Sec. 5/4-1)**

21-2-9 DRAMSHOP INSURANCE. No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following minimum coverages:

(A) **Bodily Injury Liability.** **\$45,000 each occurrence**

(B) **Property Damage:** **\$45,000 each occurrence**

(C) **Means of Support or Loss of Society:** **\$55,000 each occurrence**

(D) **Combined Single Limit.** In lieu of individual insurance coverage listed in subsections (A), (B) and (C) of this Section, the applicant may provide a combined single limit policy in the amount of **Three Hundred Thousand Dollars (\$300,000.00)**.

(See 235 ILCS Sec. 5/1-3.17-1 and 235 ILCS Sec. 5/5-1(e))

21-2-10 DISPLAY OF LICENSE. Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(See 235 ILCS Sec. 5/6-24)**

21-2-11 RECORD OF LICENSES. The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours**. **(See 235 ILCS Sec. 5/4-1)**

21-2-12 EVENT LICENSE/SPECIAL EVENT LICENSE. The Mayor may issue an Event License to any licensed retailer, as defined in this Chapter, or to any retailer licensed to sell alcoholic liquor by the State of Illinois, or a Special Event Retailer License to any educational, fraternal, political, civic, religious or non-profit organization, authorizing the retail sale and offering for sale of alcoholic liquor only for consumption on or off the premises and on the date(s) and times designated by the Event License or the Special Event Retailer License. The following restrictions are applicable for licenses issued pursuant to this Section: **(Ord. No. 2015-14; 09-23-15)**

(A) **License Fee.** The license fee shall be **Twenty-Five Dollars (\$25.00)** per event day and shall be payable by the applicant upon issuance of the Event License or the Special Event Retailer License.

(B) **Duration of License.** An Event License or Special Event Retailer License may be granted for the following time periods: **one (1) day** to a maximum of **fifteen (15) days** per location in any calendar year period.

(C) **Applicability of Liquor Regulations.** Unless specifically provided otherwise herein, licenses issued under this Section shall be subject to all the regulations, procedures and provisions applicable generally to liquor license applicants or license holders as enumerated in this Chapter, including but not limited to the dramshop insurance requirements as set forth in **Section 21-2-9** of this Chapter.

(D) **Application Procedure.**

(1) **Application Forms.** Applications for licenses under this Section shall be made on forms provided by the City Clerk and shall provide the following information:

- (a) The name of the retail license seeking the Event License or the name of the educational, fraternal, political, civic, religious or non-profit organization seeking the Special Event Retailer License.
- (b) In the event of a Special Event Retailer License, the names and signatures of at least **three (3)** responsible current members of the organization, group or entity;
- (c) A description of the location at which the license will be utilized;
- (d) The date(s) on which and the times during which the license will be utilized;
- (e) A description of the activity or event for which the license will be utilized, specifying the nature and times of the proposed entertainment, if any;
- (f) An estimate of the number of persons expected in attendance; and,
- (g) A description of the proposed procedures for handling the following: sale of alcoholic liquor, identification check, traffic control, vehicular parking, pedestrian control, site and vicinity clean-up, money handling and in the event of a Special Event Retainer License, a verification that the net proceeds from the event will be used for educational, fraternal, political, civic, religious or non-profit purposes.

(2) **Application Submission.** The completed application form shall be filed in the office of the City Clerk not more than **sixty (60)** nor less than **fourteen (14) days** prior to the date on which the license, if granted, will be utilized. **(Ord. No. 2019-02; 02-05-19)**

- (3) **Application Fee.** The applicant shall pay a **Twenty-Five Dollar (\$25.00)** non-refundable license application fee at the time of filing the license application. If the license is granted, the application fee shall be applied to the license fee for the event.
- (4) **Application Review.** The Mayor shall approve or disapprove the application not less than **seven (7) days** prior to the date on which the license, if granted, would be utilized. The Mayor may deny a license if he finds any one or more of the following: **(Ord. No. 2015-14; 09-23-15)**
- (a) The issuance of a license is likely to cause any one or more of the following: traffic problems, parking problems, excessive noise, trash or a disturbance of the peace; or
 - (b) There is sufficient means to prevent the service of alcohol to minors; or
 - (c) A prior license involving this application (including members of applicant's group or association) resulted in problems such as noise, traffic congestion, parking difficulties, trash, drinking by minors, or a disturbance of the peace; or
 - (d) A prior license involving this location resulted in problems such as noise, traffic congestion, parking difficulties, trash, drinking by minors, or a disturbance of the peace; or
 - (e) A lack of complete application information.
- (5) **Release of Liability and Indemnification.** By submitting an application as provided herein, the applicant thereby agrees to release and to indemnify the City from any and all liability arising from the issuance of the license or any event or occurrence held or happening in connection therewith.

(E) **Restoration of Licensed Premises.** The licensee shall restore the licensed premises and vicinity to approximately the same condition as existed prior to the holding of the event at which the license was utilized.

(F) **Health Department Notification.** The licensee shall notify the Peoria County Health Department of the pendency of the activity within the time as may be required by the Department and shall request a health inspection of the premises on which the license will be issued.

(G) **Transfer of Retailer's Inventory.** If the alcoholic liquor to be sold pursuant to a license granted herein is provided by a licensed retailer, the license allows the licensed retailer to transfer a portion of its alcoholic liquor inventory from the licensed premises to the premises specified in the Event License the transferred alcoholic liquor for use or consumption, but not for resale in any form. **(Ord. No. 2006-2; 02-21-06)**

ARTICLE III - REGULATIONS

21-3-1 HAPPY HOUR RESTRICTIONS.

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Serve **two (2)** or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except conducting product sampling pursuant to paragraphs (a) and (b) below or selling or delivering wine by the bottle or carafe;
 - (a) Licensees may conduct product sampling for consumption at a licensed retail location. Up to **three (3)** samples, consisting of no more than (i) **one-fourth (1/4) ounce** of distilled spirits; (ii) **one (1) ounce** of wine, or (iii) **two (2) ounces** of beer may be served to a consumer in **one (1) day**.
 - (b) Notwithstanding the provisions of subsection (a), an on-premises retail licensee may offer for sale and serve more than **one (1) drink** per person for sampling purposes without violating paragraph (1) of subsection (B) of this Section or paragraph (6) of subsection (C) of this Section, provided the total quantity of the sampling package, regardless of the number of containers in which the alcoholic liquor is being served, does not exceed **one (1) ounce** of distilled spirits, **four (4) ounces** of wine, or **sixteen (16) ounces** of beer. In any event, all provisions of this Section shall apply to an on-premises retail licensee that conducts product sampling.
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
- (3) Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection C(7) of this Section.

- (4) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
 - (5) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
 - (6) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (5).
- (C) Nothing in subsection B shall be construed to prohibit a licensee from:
- (1) Offering free food or entertainment at any time;
 - (2) Including drinks or alcoholic liquor as part of a meal package;
 - (3) Including drinks of alcoholic liquor as part of a hotel package;
 - (4) Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
 - (5) Providing room service to persons renting rooms at a hotel;
 - (6) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to **two (2)** or more persons at one time; or
 - (7) Increasing prices of drinks of alcoholic liquor in lieu of, in whole, or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.
- (D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by Article IV of this Code. **(See 235 ILCS Sec. 5/6-28 and 5/6-31)**

21-3-2 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. **(See 235 ILCS Sec. 5/6-11)**

21-3-3 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(See 235 ILCS Sec- 5/7-14)**

21-3-4 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(See 235 ILCS Sec. 5/6-12)**

21-3-5 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"**.

21-3-6 RESTRICTED CITY AREAS. It shall be unlawful to establish a retail liquor business within the City in violation of the restrictions of the Zoning Code of Peoria County.

21-3-7 ELECTION DAYS. All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

21-3-8 UNLAWFUL ACTS. It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

(A) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Mayor.

(B) Drink any alcoholic liquors in any public park, except with the permission of the Mayor.

(C) Drink any alcoholic liquors on any private property without permission of an owner thereof.

(D) Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

21-3-9 UNLAWFUL ENTERTAINMENT: NUDE DANCING. 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.

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.

21-3-10 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(See 410 ILCS Sec. 650/1, et seq.)**

21-3-11 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(See 410 ILCS Sec. 650/10)**

21-3-12 **HEALTH PERMIT.** Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-13 **PEDDLING.** It shall be unlawful to peddle alcoholic liquor in this City. **(See 235 ILCS Sec. 5/4-1)**

21-3-14 **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 a gambling device or gambling devices properly regulated and licensed by the State of Illinois in accordance with the Video Gaming Act or in accordance with any other Act authorized by Illinois law. It shall be unlawful for any licensee or his agent and/or employee, to give or award a cash prize or equivalent to any person playing any device or machine except as permitted through a gambling device or gambling devices properly regulated and licensed by the State of Illinois in accordance with the Video Gaming Act or in accordance with any other Act authorized by Illinois law. **(Ord. No. 2012-11; 08-07-12)**

21-3-15 **DISORDERLY HOUSE.** Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(See 235 ILCS Sec. 5/4-1)**

21-3-16 **PROHIBITED SALES - GENERALLY.** No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(See 235 ILCS Sec- 5/6-16)**

21-3-17 **PERSONS SELLING OR SERVING LIQUOR.** It shall be unlawful for any person under the age of **twenty-one (21) years** to sell, draw, pour or mix any alcoholic liquor in any licensed retail premises. However, a person may serve alcoholic liquor as a waiter or waitress in a licensed restaurant if he or she is **eighteen (18) years** of age or older. **(See 235 ILCS Sec. 5/4-1)**

21-3-18 **UNDERAGED; ENTRY INTO BAR.** It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar unless accompanied by a parent or legal guardian. No holder of a license, nor any officer, associate, member,

representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to attend any bar. For the purpose of preventing the violation of this Section, any holder of a license, or his agent or employee, may refuse to permit entry into the bar by any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian. **(See 235 ILCS Sec- 5/4-1)**

21-3-19 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(See 235 ILCS Sec. 5/6-20)**

21-3-20 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(See 235 ILCS Sec. 5/6-20)**

21-3-21 TRANSFER OF IDENTIFICATION CARD. No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(See 235 ILCS Sec. 5/6-20)**

21-3-22 SELLING FALSE IDENTIFICATION. Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(See 235 ILCS Sec. 5/6-16)**

21-3-23 **FALSE IDENTIFICATION.** Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(See 235 ILCS Sec. 5/6-16)**

21-3-24 **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 City Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

“YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS CITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR.”

21-3-25 **EXCLUSIONARY PROVISION.** The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(See 235 ILCS Sec. 5/6-20)**

21-3-26 **INSPECTIONS.** It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(See 235 ILCS Sec- 5/4-4)**

21-3-27 **BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS.** It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(See 235 ILCS Sec. 5/6-10)**

21-3-28 **RESTRICTIONS ON LICENSEE.** In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(See 235 ILCS Sec. 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(See 235 ILCS Sec. 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 or to liquor purchased by credit card or other credit device for consumption off the premises. **(See 235 ILCS Sec. 5/6-19)**

(D) No person, except a manufacturer, distributor or importing distributor shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(See 235 ILCS Sec. 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(See 235 ILCS Sec. 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)**

21-3-29 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. **(See 235 ILCS Sec. 5/6-16)**

21-3-30 RENTING HOTEL ROOMS FOR DRINKING. Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(See 235 ILCS Sec. 5/6-16)**

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(See 235 ILCS Sec. 5/10-2)**

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/10-5)**

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(See 235 ILCS Sec. 5/10-6)**

21-4-6 **ABATEMENT OF PLACE USED IN VIOLATION.** Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(See 235 ILCS Sec. 5/10-7)**

21-4-7 **USE OF PREMISES FOR ONE YEAR AFTER REVOCATION.** When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(See 235 ILCS Sec. 5/7-13)**

21-4-8 **REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(See 235 ILCS Sec. 5/4-4)**

21-4-9 **COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any

amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(See 235 ILCS Sec. 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 suspension and/or revocation, the Liquor Commissioner may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for each violation; each day on which a violation continues shall constitute a separate violation. No more than Ten Thousand Dollars (\$10,000.00) in fines under this section may be imposed against any licensee during any one (1) year period. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury, as the case may be. **(See 235 ILCS Sec. 5/7-5)**

(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 licensee. The findings of the Commissioner shall be predicted upon competent evidence. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/7-9)**

21-4-12 SUBSEQUENT VIOLATIONS IN A YEAR. In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(See 235 ILCS Sec. 5/7-9)**

21-4-13 APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION. Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(See 235 ILCS Sec. 5/7-9)**

APPLICATION
FOR
LIQUOR LICENSE
REQUIRED BY
THE CITY OF
ELMWOOD
TO BE FILED WITH
THE
CITY CLERK

License No. _____
 Date Issued _____
 Expires _____
 Checked By _____
 Approved By _____
 Date _____
 Order to Receive No. _____
 Amount _____
 Cash Bank Draft
 Cashier's Check Money Order
 Certified Check _____

IMPORTANT -- READ CAREFULLY -- PERSONAL CHECKS NOT ACCEPTED UNLESS CERTIFIED

This application properly completed and signed must be filed with the City Clerk and must be accompanied by a remittance in the proper amount, made payable to the City Treasurer. This remittance must be in the form of a Certified or Cashier's Check, United States Postal Money Order, Express Money Order, or Licensed Currency Exchange Money Order, Bank Draft, Bank Money Order, or Personal Money Order. Cash accepted.

The undersigned individual or partnership hereby makes application for a LIQUOR LICENSE and submits the following information:

1. Applicant: _____
(GIVE NAME OF INDIVIDUAL OR NAMES OF PARTNERS---TYPE OR PRINT PLAINLY)
2. Trade, Partnership or Assumed Name _____
TYPE OR PRINT NAME PLAINLY TELEPHONE _____
3. Location of above place of business (NUMBER AND STREET OR LOT AND BLOCK OR SECTION, TOWNSHIP AND RANGE MUST BE GIVEN) _____
CITY/TOWN/OR VILLAGE ZIP CODE RURAL ROUTE AND POST OFFICE _____
4. Has your Assumed Name been filed with the County Clerk? _____
5. Are alcoholic liquors stored but not sold at any location other than the one given above? _____
If "yes", give location: _____
NUMBER AND STREET OR LOT AND BLOCK OR SECTION, TOWNSHIP AND RANGE, CITY
6. Check principal kind of business: Restaurant Grocery Hotel Other
 Tavern Amusement Place Country Club
 Package Store Department Store Social Club
7. Give number of your Current Liquor License for this location _____
A. In whose name or names is your license issued? _____
B. Date license issued _____ Date license expires _____
Month Day Year Month Day Year
8. Give name and address of owner of premises: _____
When does your lease expire? _____
Month Day Year
9. Give the date you first made application for a Liquor License for any location in Illinois: _____
(Month/Date/Year).
A. Disposition of application: _____
B. Give address _____
NUMBER AND STREET OR LOT AND BLOCK OR SECTION, TOWNSHIP AND RANGE, CITY
10. Give date you began liquor business at this location _____
Month Day Year
11. Give date partnership was formed under name given on Line 1: _____
Month Day Year
12. Has a Liquor License been revoked at this location within the past year? _____
13. Is this business located within _____ feet of any church, school, hospital, home for the aged or indigent persons or for veterans, their wives or children or any naval or military station? _____
A. If answer to the above is "yes", is your place of business a hotel offering restaurant service, a regularly organized club, a food shop, or other place where the sale of liquor is not the principal business carried on? _____
B. If answer to (A) is "yes", on what date was business started? _____ (Month/Day/Year)
14. Has any manufacturer, importing distributor or distributor directly or indirectly paid or agreed to pay for this license, advanced money, or anything else of value, except as specifically permitted in the Act, or any credit, (Other than merchandising credit in the ordinary course of business as specifically permitted in the Act), or is such a person directly or indirectly interested in the ownership, conduct or operation of the place of business? _____ If answer is "yes", give particulars _____
15. Name _____
A. Residence Address _____
(NUMBER AND STREET OR RURAL ROUTE)

(NAME OF CITY, COUNTY AND STATE)
B. Place of Birth: _____
Date of Birth: _____
C. Are you a citizen of the United States? _____
If a naturalized citizen, time and place of naturalization? _____
16. Name _____
A. Residence Address _____
(NUMBER AND STREET OR RURAL ROUTE)

(NAME OF CITY, COUNTY AND STATE)
B. Place of Birth: _____
Date of Birth: _____
C. Are you a citizen of the United States? _____
If a naturalized citizen, time and place of naturalization? _____

- D. Have you ever been convicted of a felony or otherwise disqualified to receive the license applied for by reason of any matter or thing contained in the Illinois Liquor Control Act or the Municipal Liquor Code? YES NO
If "yes", name court of conviction _____
- E. Have you ever made application for a liquor license for any other premises? _____
DATE: _____
State disposition of application: _____
Give address: _____
- F. Are you or is any other person, directly or indirectly interested in your place of business, a public official as defined in Sec. 2 (14) Art. VI of the Illinois Liquor Control Act? _____
If so, office held? _____
- G. Has any license previously issued to you by any State or local authorities been SUSPENDED? _____
DATE: _____
If so, state reasons therefor: _____
WHERE: _____
(CITY COUNTY STATE)
- H. Has any license previously issued to you by any State or local authorities been REVOKED? _____
If so, state reasons therefor: _____
WHERE: _____
(CITY COUNTY STATE)
- I. Will you comply with the Local Liquor Code and the Regulations in connection therewith? _____

- D. Have you ever been convicted of a felony or otherwise disqualified to receive the license applied for by reason of any matter or thing contained in the Illinois Liquor Control Act or the Municipal Liquor Code? YES NO
If "yes", name court of conviction _____
- E. Have your ever made application for a liquor license for any other premises? _____
DATE: _____
State disposition of application: _____
Give address: _____
- F. Are you or is any other person, directly or indirectly interested in your place of business, a public official as defined in Sec. 2 (14) Art. VI of the Illinois Liquor Control Act? _____
If so, office held? _____
- G. Has any license previously issued to you by any State or local authorities been SUSPENDED? _____
DATE: _____
If so, state reasons therefor: _____
WHERE: _____
(CITY COUNTY STATE)
- H. Has any license previously issued to you by any State or local authorities been REVOKED? _____
If so, state reasons therefor: _____
WHERE: _____
(CITY COUNTY STATE)
- I. Will you comply with the Local Liquor Code and the Regulations in connection therewith? _____

17. Do you possess a current Federal Wagering or Gaming Device Stamp? YES NO
Stamp No. _____ Amount _____
18. Will this business be conducted by a manager or agent? YES NO If answer is "YES", Manager or Agent must give the following information:
A. Name _____ Date of Birth _____
B. Residence Address _____
(STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY COUNTY STATE)
C. Place of Birth _____ Are you a citizen of the United States? YES NO
D. If a naturalized citizen, time and place of naturalization? _____
E. Have you ever been convicted of any crime as stated in Question 15-D or 16-D above?
 YES NO State Offense: _____
F. Are you or have you ever been interested in any liquor business at another address? YES NO
DATE: _____ If so, state reasons therefor _____
WHERE: _____ (CITY, COUNTY, AND STATE)
G. Has any license previously issued to you by any State or local authorities been SUSPENDED?
 YES NO DATE: _____ If so, state reasons therefor _____
WHERE: _____ (CITY, COUNTY AND STATE)
H. Has any license previously issued to you by any State or local authorities been REVOKED?
 YES NO DATE: _____ If so, state reasons therefor _____
WHERE: _____ (CITY, COUNTY AND STATE)

NO LICENSE SHALL BE ISSUED UNLESS ALL THE ABOVE QUESTIONS ARE COMPLETELY ANSWERED

**AFFIDAVIT
(PLEASE READ CAREFULLY BEFORE SIGNING)**

I (We) do solemnly swear (or affirm) that the statements given above are true and correct to the best of my (our) knowledge and belief; that I (We) will comply with all regulations of Federal, State and Local Liquor Control Laws; that a copy of an ordinance governing the sale at retail of alcoholic liquors and beverages in this municipality has been furnished to me (us); that I (we) understand the same, and agree to comply with all the provisions set forth therein.

I (We) swear (or affirm) that I (We) will not violate any of the laws of the State of Illinois or of the United States of America in the conduct of the place of business described herein and that the statements contained in this application are true and correct and are made for the purpose of inducing the City of _____, Illinois to issue the license herein applied for.

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, A.D., 19__.

APPLICANT(S):

_____ CLERK

(SEAL)

CHAPTER 24

MOTOR VEHICLE CODE

ARTICLE I – DEFINITIONS

24-1-1 **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City, the provisions thereof shall be controlling within the corporate limits of the City. **(See 65 ILCS Sec. 5/1-3-2)**

ARTICLE II - GENERAL REGULATIONS

24-2-1 **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, and Auxiliary Police assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(See 625 ILCS Sec. 5/11-203)**

24-2-2 **SCENE OF FIRE.** The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

24-2-3 **SIGNS AND SIGNALS.** It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **Schedule "V" - Signs and Signals** shall be an integral part of this Section. **(See 625 ILCS 5/11-301)**

24-2-4 UNAUTHORIZED SIGNS. No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

24-2-5 INTERFERENCE WITH SIGNS OR SIGNALS. It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

24-2-6 ADVERTISING SIGNS. It shall be unlawful to maintain anywhere in the City any sign, signal, marking or device other than a traffic sign or signal authorized by the City Council or the Illinois Department of Transportation, which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal in view of any street or highway, and it shall be unlawful to place or maintain any sign which hides from view any lawful traffic-control device. It shall be unlawful to maintain or operate any flashing or rotating beacon of light in view of any street or highway. **(See Chapters 27 and 33) (Also See Chapter 40 - Zoning Code)**

24-2-7 ANIMALS OR BICYCLES. Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(See 625 ILCS Sec. 5/11-206)**

24-2-8 BICYCLE LAMPS, REFLECTORS, AND EQUIPMENT. When used at nighttime, every bicycle shall be equipped with the following:

(A) A lamp upon the front which emits a white light visible from a distance of at least **five hundred (500) feet** to the front.

(B) A red reflector on the rear which shall be visible to a distance of **six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

(C) A reflex reflector on each pedal visible from the front and rear of the bicycle from a distance up to **two hundred (200) feet** when viewed within the lawful lower beams of headlights on a motor vehicle.

(D) Side reflectors upon each side of the bicycle which shall be visible up to a distance of **five hundred (500) feet** when viewed directly in front of a lawful lower beam of motor vehicle headlights. The requirements of this subparagraph may be met by reflective materials which shall be at least **three-sixteenths (3/16) of an inch** wide on each side of each tire or rim which may indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim.

24-2-9 REGULATION OF IN-LINE SKATES (ROLLERBLADES OR ROLLERSKIS) AND ROLLERSKATES. All on-street operation of in-line skates (rollerblades and rollerskis) and rollerskates shall be conducted as far to the right of the traffic lane as possible, in a single file and flowing with traffic. All operations of these in-line skates and rollerskates shall be during daylight hours unless the operator has a white light showing to the front and is wearing some type of reflective clothing or reflective strips on his or her clothing which can be seen from a distance of **five hundred (500) feet** to the rear and side. Further, all operation shall be consistent with the rules of the road established for bicycles. In-line skates and rollerskates shall be allowed on all City streets and sidewalks except for those listed in **Schedule "Z"** at the conclusion of this Code.

ARTICLE III - STOP AND THROUGH STREETS

24-3-1 **THROUGH STREETS.** The streets and parts of streets of the City designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

24-3-2 **ONE-WAY STREETS OR ALLEYS.** It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(See 625 ILCS Sec. 5/11-208)**

24-3-3 **STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "A"** for designated stop intersections. **(See 625 ILCS Sec. 5/11-302)**

24-3-4 **YIELD RIGHT-OF-WAY STREETS.** The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **(See Schedule "C")**

24-3-5 **POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(See 625 ILCS Sec. 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. No person shall participate within the City in drag racing as such activity is defined by **625 ILCS Sec. 5/11-504.**

(C) Fleeing or Attempting to Elude Police Officer. Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D) **Unlawful Possession of Highway Sign or Marker.** Traffic control signals, signs or markers owned by the City shall be possessed only by the City's employees, police officers, contractors, or their employees engaged in highway construction, contract or work upon the roadways or public ways approved by the City. No person shall possess a traffic control signal, sign or marker owned by the City except as provided in this paragraph without the prior written authority of the City. It shall be a violation of this Chapter for a person to possess such a traffic control signal, sign or marker without lawful authority.

(E) **Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this section, proof of the determination of the maximum speed by the City and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(See 625 ILCS Sec. 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the City Council, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **Schedule "D"** shall list the applicable streets that have specific speed limits thereon. **(See 625 ILCS Sec. 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. School zones are listed in **Schedule "D"**.

This Section shall not be applicable unless appropriate signs are posted upon streets and maintained by the City or State wherein the school zone is located. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 5/11-415)**

24-4-4 **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.

24-4-5 **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.

24-4-6 **EXCESSIVE NOISE - SQUEALING TIRES.** No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(See 625 ILCS Sec. 5/11-505)**

24-4-7 **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.

24-4-8 **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.

24-4-9 **SOUND AMPLIFICATION SYSTEMS.** No driver of any motor vehicle within this State shall operate or permit operation of any sound amplification system which can be heard outside the vehicle from **seventy-five (75) feet** or more when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. **(See 65 ILCS Sec. 5/12-611)**

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 **ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES**
ADOPTED. The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12**, entitled "**Equipment of Vehicles**", as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City. **(See 625 ILCS Secs. 5/12-605, 5/12-605.1; and 5/12-605.2)**

24-5-2 **MUFFLER.** No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(See 625 ILCS Sec. 5/12-602)**

ARTICLE VI - PARKING RULES

24-6-1 TIME LIMIT PARKING. It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

24-6-2 PARKING FOR SALE, REPAIR OR PEDDLING PROHIBITED.
No person shall park a vehicle upon any street for the purpose of:

- (A) displaying such vehicle for sale; or
- (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary; or
- (C) peddling merchandise.

24-6-3 PRIVATE PROPERTY. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

24-6-4 STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

- (1) **Stop, Stand or Park a Vehicle:**
 - (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (b) On a sidewalk.
 - (c) Within an intersection.
 - (d) On a crosswalk.
 - (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
 - (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
 - (h) On any railroad tracks.
 - (i) At any place where official signs prohibit stopping.
 - (j) On any controlled-access highway.
 - (k) In the area between roadways of a divided highway, including crossovers.
 - (l) In any alley that is open and maintained.

- (2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):
 - (a) In front of a public or private driveway.
 - (b) Within **fifteen (15) feet** of a fire hydrant.
 - (c) Within **twenty (20) feet** of a crosswalk at an intersection.
 - (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.
 - (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).
 - (f) At any place where official signs prohibit standing or parking.
- (3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):
 - (a) within **fifty (50) feet** of the nearest rail of a railroad crossing;
 - (b) at any place where official signs prohibit parking;
 - (c) in yellow zones.

- (4) **Stand or Part a Truck Tractor and/or Semi-Tractor** (whether occupied or not, except momentarily to pick up or deliver freight) on any public streets, parking lots, alleys or other public rights-of-way. **(Ord. No. 95-4; 03-21-95)**

(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" and "G" shall list all applicable no-parking zones.

(D) **Truck Parking Prohibitions.** No person shall park any vehicle, vehicles or trailer the length of which exceeds **twenty (20) feet** or any Second Division vehicle licensed for an "F" classification or higher:

- (1) Upon any street, alley or any public way within the City except for the purpose and time period reasonably necessary to load and unload the same.
- (2) Upon public or private property within the City with the motor running for a continuous period in excess of **thirty (30) minutes**. **(See 625 ILCS Sec. 5/3-815)**

24-6-5 PARKING FOR THE HANDICAPPED.

(A) **Designated Parking.** Certain parking spaces within the confines of the City shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.

(B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the City.

(C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(See 625 ILCS Sec. 5/11-1301.2)**

(D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency of a City Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes.** The registered owner of the vehicle as ascertained by the registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **One Hundred Dollars (\$100.00).** The same registered owner will be held liable for the cost of removal of the vehicle and must pay that cost, plus storage charges, if any, prior to the release of the vehicle.

(E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "H".**

24-6-6 LOAD LIMITS.

(A) **Established.** There is hereby established "gross load limit" on City streets listed in **Schedule "J"**. The term "gross load limit" shall mean the total weight of a vehicle and the load it is carrying. The specified streets and the load limits are hereby listed in **Schedule "J"**.

(B) **Restrictions.** It shall be unlawful to operate a vehicle upon any street where the operation is prohibited by this Section and where such signs of prohibition are posted, except that a vehicle may be driven on such street for not more than the minimum distance necessary for the purpose of making deliveries or picking up loads.

(C) **Exceptions.** This Chapter shall not include pickup trucks, trucks operated by the City maintenance and repairs on the street or the operation of a vehicle owned by the U.S. government or State of Illinois while on lawful business of these agencies.

24-6-7 TOWING CARS AWAY. The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car, boat, trailer, or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard,

blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle; or any vehicle which has been parked in any public street or other public place for a period of **twenty-four (24) hours**.

Vehicles towed away shall be stored on any City property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the City in removing and storing such vehicle(s).

24-6-8 PARKING VIOLATIONS. Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the City **Ten Dollars (\$10.00)** for each such offense and **Fifteen Dollars (\$15.00)** for the second offense within **six (6) months**. Such payment may be made at the City Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **five (5) days**.

Provided, this Section shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is kept or housed or so as to block an emergency entrance in a hospital. Nor shall this section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department.

(A) **Removal - Time Limit.** Any vehicle illegally parked for a period in excess of **twenty-four (24) hours** may be removed by a towing service authorized by the Police Department of the municipality. In any emergency, any vehicle may be removed by any means when authorized by the Police Department of the municipality.

(B) **City Parking Lots.** No person shall park a motor vehicle on a City parking lot unattended for more than **five (5)** consecutive days.

(C) **Parking Violation Ticket.** The parking violation ticket shall be as follows:

24-6-9 PRIMA FACIE PROOF. The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

24-6-10 SNOW ROUTES. It shall be unlawful to park a vehicle on any street designated a Snow Route at any time within **eighteen (18) hours** after a snowfall of **two (2) or more inches**, unless the street has been cleared of snow. Where there has been a snow forecast of **two (2) or more inches** for any calendar day, it shall be unlawful to park any vehicle on a designated Snow Route for that calendar day. **Schedule "K"** shall list all Snow Routes. **(Ord. No. 2013-1; 01-15-13)**

24-6-11 **PARKING TICKETS - STATE STATUTE.** The City Council intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

ARTICLE VII - ABANDONED VEHICLES

24-7-1 **DEFINITIONS.** For the purpose of this Code, the following words shall have the meanings ascribed to them as follows:

"ABANDONED VEHICLE" shall mean all motor vehicles or other vehicles in a state of disrepair, rendering the vehicle incapable of being driven in its condition; or any motor vehicle or other vehicle that has not been moved or used for **seven (7) consecutive days** or more and is apparently deserted.

"ANTIQUE VEHICLE" means any motor vehicle or other vehicle **twenty-five (25) years** of age or older.

"COMPONENT PART" means any part of a vehicle other than a tire having a manufacturer's identification number or an identification number issued by the Secretary of State.

"DERELICT VEHICLE" means any inoperable, unregistered, or discarded motor vehicle, regardless of title, having lost its characteristic as a substantial property and left unattended without justification on the owner's, lienholder's or other legally entitled person's land contrary to the public policy expressed in this Code.

"HIGHWAY" means any street, alley or public way within this municipality.

"REMOVE" means to remove, deface, cover, or destroy.

"VEHICLE" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, whether subject to or exempt from registration, excepting, however, bicycles, snowmobiles and devices used exclusively upon stationary rails or tracks. **(See 625 ILCS Sec. 5/4-201)**

24-7-2 **ABANDONMENT.**

(A) **Highway.** The abandonment of a motor vehicle or other vehicle or part thereof on any highway in this municipality is unlawful and subject to penalties as set forth herein.

(B) **Private Property.** 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 municipality is unlawful, except on property of the owner, or bailee of such abandoned vehicle.

(C) **Owner's Property.** A vehicle or any part thereof so abandoned on private property shall be authorized for removal by the police department, 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 **Ch. 65 Sec. 5/11-40-3 of the Illinois Compiled Statutes**. A violation of this section is subject to penalties as set forth in **Section 1-1-20** of the City Code. **(See 625 ILCS Sec. 5/4-201)**

24-7-3 POSSESSION OF VEHICLE BY OTHER PARTY; TOWING.

Where an abandoned, lost, stolen or unclaimed motor vehicle or other vehicle comes into the temporary possession or custody of a person in this municipality who is not the owner, lienholder or other legally entitled person of the vehicle, such person shall immediately notify the Police Department when the vehicle is within the corporate limits of the municipality. Upon receipt of such notification, the Police Department or designated representative shall authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed motor vehicle or other vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow, as set forth in **Section 24-7-5**, until the vehicle is claimed by the owner, lienholder, or any other person legally entitled to possession thereof or until it is disposed of as provided in this Chapter. **(See 625 ILCS Sec. 5/4-202)**

24-7-4 REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES - TOWING OR HAULING AWAY.

(A) When a vehicle is abandoned or left unattended on a highway in an urban district for **ten (10) hours** or more, its removal by a towing service may be authorized by the Police Department.

(B) 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 the Police Department.

(C) When a vehicle removal from either public or private property is authorized by the Police Department, the owner, lienholder or other legally entitled person of the vehicle shall be responsible for all towing costs.

(D) The remaining provisions of **Section 4-203 of Chapter 625**, of the **Illinois Compiled Statutes** are hereby adopted by reference and the provisions thereof shall be controlling within the corporate limits of this municipality. **(See 625 ILCS Sec. 5/4-203)**

24-7-5 POLICE RESPONSIBILITIES. When a vehicle is authorized to be towed away as provided herein, the Police Department shall keep and maintain a record of the vehicle towed, listing by color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number and license plate 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. **(See 625 ILCS Sec. 5/4-204)**

24-7-6 **UNKNOWN OWNER.** When the Police Department does not know the identity of the registered owner, lienholder or other legally entitled person, they will cause the motor vehicle registration records of the State of Illinois to be searched by a directed communication to the Secretary of State for the purpose of obtaining the required ownership information.

The Police Department authorizing the impoundment shall cause the stolen motor vehicle files of the Illinois State Police to be searched by a directed communication to the Illinois State Police for stolen or wanted information of the vehicle. The information determined from these record searches shall be used by the Police Department in sending notification by certified mail to the owner, lienholder or legally entitled person advising where the vehicle is held, requesting a disposition to be made and setting forth public sale information. **(See 625 ILCS Sec. 5/4-205)**

24-7-7 **IDENTIFYING AND TRACING VEHICLE.** When the registered owner, lienholder, or other person legally entitled to the possession of a motor vehicle or other vehicle cannot be identified from the registration files of this State or from the registration files of a foreign state, if applicable, the Police Department shall notify the Illinois State Police for the purpose of identifying the vehicle's owner, lienholder, or other person legally entitled to the possession of the vehicle. The information obtained by the Illinois State Police shall be immediately forwarded to the Police Department having custody of the vehicle for notification purposes as set forth in **Section 24-7-6** of this Chapter. **(See 625 ILCS Sec. 5/4-206)**

24-7-8 **RECLAIMED VEHICLES - EXPENSES.** Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided in **Section 24-7-9**, the owner, lienholder, or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner, lienholder, or other legally entitled person under this section until all towing and storage charges have been paid. **(See 625 ILCS Sec. 5/4-207)**

24-7-9 **DISPOSAL OF UNCLAIMED VEHICLE.** Whenever an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder, or other person legally entitled to its possession for a period of **thirty (30) days** after notice has been given as provided herein, the Police Department having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automatic parts recycler, rebuilder or scrap processor under **Article 5 of Chapter 625, of the Illinois Compiled Statutes.** 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 Police Department shall cause a notice of the time and place to be sent by certified mail to the

registered owner, lienholder, or other person known by the Police Department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.

In those instances where the certified notification specified herein has been returned by the postal authorities to the Police Department due to the addressee having moved or being unknown at the address obtained from the registration records of this State, the sending of a second certified notice shall not be required.

24-7-10 DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE.

(A) **New Car.** When the identity of the registered owner, lienholder, or other person legally entitled to the possession 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 Chapter, the vehicle may be sold as provided for in **Section 24-7-9** of this Code 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 Code, it shall be kept in custody for a minimum of **ten (10) days** for the purpose of determining the identity of the registered owner and lienholder and contacting the registered owner and lienholder by the U.S. Mail, public service or in person for a determination of disposition; and an examination of the Illinois State Police stolen motor 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 person, the Chief of Police shall authorize the disposal of the vehicle as junk.)

(C) **Antique Vehicle.** A vehicle classified as an antique vehicle may, however, be sold to a person desiring to restore it. **(See 625 ILCS Sec. 5/4-209)**

24-7-11 POLICE RECORD FOR DISPOSED VEHICLE. When a motor vehicle or other vehicle in the custody of the Police Department 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 Chapter, a report of the transaction shall be maintained by the Police Department for a period of **one (1) year** from the date of the sale or disposal. **(See 625 ILCS Sec. 5/4-210)**

24-7-12 PUBLIC SALE PROCEEDS. When a vehicle located within the corporate limits of this municipality is authorized to be towed away by the Police Department and disposed of as set forth in this Code, the proceeds of the public sale or disposition, after the deduction of towing, storage and processing charges, shall be deposited in the municipal treasury. **(See 625 ILCS Sec. 5/4-211)**

24-7-13 **LIABILITY.** A law enforcement officer or agency, 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 Code. **(See 625 ILCS Sec. 5/4-213)**

24-7-14 **PENALTY.**

(A) Any person who violates or aids and abets in the violation of this Article, upon conviction, shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, and

(B) shall be required by the Court to make a disposition on the abandoned or unclaimed vehicle and pay all towing and storage charges pursuant to this Article. **(See 625 ILCS Sec. 5/4-214)**

ARTICLE VIII – IMPOUNDMENT OF VEHICLES

24-8-1 OFFENSES WHICH SUBJECT A VEHICLE TO SEIZURE AND IMPOUND.

- (A) Possession, solicitation or delivery of cannabis or a controlled substance;
- or,
- (B) Driving under the influence of alcohol, drugs and/or intoxicating compounds; or,
- (C) Driving while driver’s license, permit or privilege to operate a motor vehicle is suspended, revoked, expired for more than **one (1) year**, or invalid; or,
- (D) Unlawful use of weapons in violation of **720 ILCS 5/24-1 et seq.**, as a primary or lesser-included offense.

24-8-2 POLICE OFFICERS TO IMPOUND VEHICLES. When a police officer has probable cause to believe that a motor vehicle is subject to seizure and impound as listed above, the police officer generally shall:

- (A) Notify the on-duty supervisor, or if no supervisor is on duty, notify the next supervisor that is on duty.
- (B) Inventory and have the vehicle towed to a City-approved impound facility or to a designated agent approved by the Police Department. If the vehicle is towed to other than a City impound facility, the police officer shall notify the person taking possession of the vehicle that it is to be held until the Police Department authorizes release.
- (C) Notify the owner, lessee, or person identifying him or herself as the owner or lessee of the vehicle, or any person who is found to be in control the vehicle at the time of the alleged offense, of the fact of seizure and of the vehicle owner’s or lessee’s right to request a preliminary administrative hearing as provided by Ordinance. The police officer shall also provide notice to said party that the vehicle will remain impounded until all administrative fees and all towing and storage charges are paid in full or pending completion of a final administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the municipality a bond equal to the administrative fees as provided by Ordinance and pays for all towing and storage charge. When no person is present to receive notification, the police officer will make a reasonable attempt to notify the vehicle owner as registered with the Illinois Secretary of State (hereinafter referred to as “Owner of Record”).
- (D) When practical, the police officer will allow the removal of personal property from the vehicle prior to the tow if the personal property is not needed for evidence, subject to forfeiture or otherwise needed to be maintained by the police. Police officers generally will not wait at the scene of the seizure to allow the removal of personal property or the summoning of person(s) to remove property. Persons under arrest will generally not be allowed to remove property prior to their release.
- (E) Prepare a written police report, notice of seizure (when immediately deliverable) and tow report, when practical, prior to ending his or her shift. The preparation of the police report allows for the conduct of a preliminary administrative hearing, supervisory review and review by the evidence custodian for possible release of personal property. The report shall state whether the vehicle or property contained therein is subject to forfeiture or is to be held for any other reason.

(F) On the next available day, identify and notify the Owner of Record of the fact of seizure and of the vehicle owner's or lessee's right to request a preliminary administrative hearing as provided by Ordinance.

24-8-3 USE OF MOTOR VEHICLE IN POSSESSION AND/OR DELIVERY OF CONTROLLED SUBSTANCES.

- (A) For purposes of this Section:
 - (1) *Controlled substances* means any substance as defined and included in the schedules of Article II of the Illinois Controlled Substance Act, **720 ILCS 570/201, et seq.**, and cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.**
- (B)
 - (1) A motor vehicle operated or used while soliciting, possessing or attempting to solicit or possess cannabis or a controlled substance or in the commission of, or in the attempt to commit, any offense in violation of the Illinois Controlled Substance Act, **720 ILCS 570/201, et seq.**, or the Cannabis Control Act, **720 ILCS 550/1 et seq.** shall be subject to seizure and impoundment under this Section. The Owner of Record of such vehicle may be subject to a conviction as provided in such Acts, and be liable to the City for Administrative Fees of **Five Hundred Dollars (\$500.00)**, in addition to fees for the towing and storage of the vehicle.
 - (2) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Section, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. When the vehicle is towed, the police officer shall notify the owner, lessee, or person identifying him or herself as the owner or lessee of the vehicle, or any person who is found to be in control the vehicle at the time of the alleged offense, of the fact of seizure and of the vehicle owner's or lessee's right to request a preliminary administrative hearing as provided by Ordinance. The police officer shall also provide notice to said party that the vehicle will remain impounded until all administrative fees and all towing and storage charges are paid in full or pending completion of a final administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the municipality a bond equal to the Administrative Fees as provided by Ordinance and pays for all towing and storage charges. When no person is present to receive notification, the police officer will make a reasonable attempt to notify the Owner of Record of the same.
 - (3) Whenever the owner or lessee of a vehicle seized pursuant to this Section requests, in writing, by hand delivery to the Police Department/Elmwood City Hall, 201 West Main Street, Elmwood, Illinois, a preliminary administrative hearing on probable cause within **twelve (12) hours** after the seizure, a hearing officer,

appointed by the City, shall conduct at City Hall such preliminary administrative hearing on probable cause within **seventy-two (72) hours** after the seizure, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary administrative hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime described in this Section, the hearing officer shall order the continued impoundment of the vehicle as provided in this Section unless the owner of the vehicle posts with the City a cash bond in the amount of **Five Hundred Dollars (\$500.00)** plus fees for towing and storing the vehicle. If the hearing officer determines that there is no such probable cause, the vehicle will be returned without assessment of any fees.

- (4) Within **ten (10) days** after a vehicle is seized and impounded pursuant to this Section, the City shall serve written notice on the owner, lessee, and any lienholder of record either by personal service or by first class mail to such interested party's address as registered with the Illinois Secretary of State of his or her right to request a final administrative hearing before the hearing officer that will be conducted to determine whether the subject vehicle is eligible for impoundment pursuant to this Section. Such notice shall state the fees and penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the fees and remaining at the towing/storage facility may be sold or disposed of by the City in accordance with applicable law. The interested party seeking a final administrative hearing must file a written request for such a hearing with the Chief of Police of the City, 201 West Main Street, Elmwood, Illinois no later than **fifteen (15) days** after the notice was mailed or otherwise served under this subsection. The hearing shall be scheduled and held no later than **forty-five (45) days** after the request for a hearing has been filed. All interested persons shall be given notice of the date, time and location of the final administrative hearing by personal service or by first class mail and shall have a reasonable opportunity to be heard at the hearing. The formal Rules of Evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in the commission of any of the violations described in this Section, the hearing officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays an Administrative Fee of **Five Hundred Dollars (\$500.00)** plus fees for towing and storage of the vehicle. The Administrative Fees shall be a debt due and owing the City. However if a cash bond has been posted, the bond shall

be applied to the Administrative Fees. If the hearing officer determines that the vehicle was not used in commission of such a violation, he or she shall order the return of the vehicle or cash bond. Notwithstanding any other provision of this Section, whenever a person, corporation or business entity with a valid lien or valid security interest against a vehicle impounded under this Section has commenced foreclosure proceedings, possession of said vehicle shall be given to that person or agent for said entity with a valid lien to refund the City the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of administrative fees and towing and storage fees imposed under this Section.

- (5) Any vehicle that is not reclaimed within **thirty-five (35) days** after a final administrative decision is rendered in favor of the City upon a hearing or against an Owner of Record who is in default or upon the failure of the Owner of Record to timely request a hearing, may be disposed of as an unclaimed vehicle as provided by law.
- (6) Fees for towing and storage of a vehicle under this Section shall be as follows:
 - (a) The following schedule of maximum fees shall be in effect for all tow calls received off the rotation tow list and shall be prominently displayed in at every office or storage facility:
 - (i) Standard Towing Fee (i.e., use of flatbed truck, clean-up, dollies, etc.): \$80.00
 - (ii) Exception Location Fee (winching): \$40.00
 - (iii) Lot Storage Fee (per day): \$25.00
 - (iv) Inside Storage Fee (per day): \$35.00
 - (v) Interrupted Towing Fee: \$40.00
 - (vi) Service Fee (i.e., jump start, tire change, fuel, etc.): \$40.00
 - (vii) Snow Emergency Tow: \$50.00
 - (viii) Emergency Openings After Closing/Special Trips: \$50.00
 - (b) Where special or unusual circumstances require an exceptional amount of extra work or equipment, a higher fee may be charged, provided that the owner or operator of the vehicle to be serviced is informed of the additional fee in advance, if such person is available to be notified.
- (7) For the purposes of this Section, a vehicle is not considered to have been used in a violation that would render the vehicle eligible for towing, if:
 - (a) the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate law enforcement authorities after the theft was discovered or reasonably should have been discovered; or,

- (b) the vehicle was operating as a common carrier including, but not limited to taxicabs or buses and the violation occurred without the knowledge of the person in control of the vehicle.

(C) The hearing officer referred to in subsections (B)(3) and (B)(4) above shall be an attorney licensed to practice law in the State of Illinois for a minimum of **three (3) years** and is not an employee of the City. All hearings shall be recorded and at the conclusion of the final administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment.

24-8-4 USE OF MOTOR VEHICLE IN COMMISSION OF A WEAPONS OFFENSE.

(A) For purposes of this Section, "Weapons Offense" means any of the following offenses contained within Article 24 of Chapter 720 of the Illinois Compiled Statutes:

- (1) 720 ILCS 5/24-1, 24-1.5, or 24-3.1.
- (B)
 - (1) A motor vehicle operated or used in the commission of, or in the attempt to commit a Weapons Offense as defined in this Section, shall be subject to seizure and impoundment under this Section. The Owner of Record of such vehicle may be subject to a conviction as provided in such Statute, and be liable to the City for Administrative Fees of **Five Hundred Dollars (\$500.00)**, in addition to fees for the towing and storage of the vehicle.
 - (2) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Section, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. When the vehicle is towed, the police officer shall notify the owner, lessee, or person identifying him or herself as the owner or lessee of the vehicle, or any person who is found to be in control the vehicle at the time of the alleged offense, of the fact of seizure and of the vehicle owner's or lessee's right to request a preliminary administrative hearing as provided by Ordinance. The police officer shall also provide notice to said party that the vehicle will remain impounded until all administrative fees and all towing and storage charges are paid in full or pending completion of a final administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the municipality a bond equal to the Administrative Fees as provided by Ordinance and pays for all towing and storage charges. When no person is present to receive notification, the police officer will make a reasonable attempt to notify the Owner of Record of the same.
 - (3) Whenever the owner or lessee of a vehicle seized pursuant to this Section requests, in writing, by hand delivery to the Police Department/Elmwood City Hall, 201 West Main Street, Elmwood, Illinois, a preliminary administrative hearing on probable cause within **twelve (12) hours** after the seizure, a hearing officer,

appointed by the City, shall conduct at City Hall such preliminary administrative hearing on probable cause within **seventy-two (72) hours** after the seizure, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary administrative hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime described in this Section, the hearing officer shall order the continued impoundment of the vehicle as provided in this Section unless the owner of the vehicle posts with the City a cash bond in the amount of **Five Hundred Dollars (\$500.00)** plus fees for towing and storing the vehicle. If the hearing officer determines that there is no such probable cause, the vehicle will be returned without assessment of any fees.

- (4) Within **ten (10) days** after a vehicle is seized and impounded pursuant to this Section, the City shall serve written notice on the owner, lessee, and any lienholder of record either by personal service or by first class mail to such interested party's address as registered with the Illinois Secretary of State of his or her right to request a final administrative hearing before the hearing officer that will be conducted to determine whether the subject vehicle is eligible for impoundment pursuant to this Section. Such notice shall state the fees and penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the fees and remaining at the towing/storage facility may be sold or disposed of by the City in accordance with applicable law. The interested party seeking a final administrative hearing must file a written request for such a hearing with the Chief of Police of the City, 201 West Main Street, Elmwood, Illinois no later than **fifteen (15) days** after the notice was mailed or otherwise served under this subsection. The hearing shall be scheduled and held no later than **forty-five (45) days** after the request for a hearing has been filed. All interested persons shall be given notice of the date, time and location of the final administrative hearing by personal service or by first class mail and shall have a reasonable opportunity to be heard at the hearing. The formal Rules of Evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in the commission of any of the violations described in this Section, the hearing officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays an Administrative Fee of **Five Hundred Dollars (\$500.00)** plus fees for towing and storage of the vehicle. The Administrative Fees shall be a debt due and owing the City. However if a cash bond has been posted, the bond shall

be applied to the Administrative Fees. If the hearing officer determines that the vehicle was not used in commission of such a violation, he or she shall order the return of the vehicle or cash bond. Notwithstanding any other provision of this Section, whenever a person, corporation or business entity with a valid lien or valid security interest against a vehicle impounded under this Section has commenced foreclosure proceedings, possession of said vehicle shall be given to that person or agent for said entity with a valid lien, to refund the City the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of administrative fees and towing and storage fees imposed under this Section.

- (5) Any vehicle that is not reclaimed within **thirty-five (35) days** after a final administrative decision is rendered in favor of the City upon a hearing or against an Owner of Record who is in default or upon the failure of the Owner of Record to timely request a hearing, may be disposed of as an unclaimed vehicle as provided by law.
- (6) Fees for towing and storage of a vehicle under this Section shall be as follows:
 - (a) The following schedule of maximum fees shall be in effect for all tow calls received off the rotation tow list and shall be prominently displayed in at every office or storage facility:
 - (i) Standard Towing Fee (i.e., use of flatbed truck, clean-up, dollies, etc.): \$80.00
 - (ii) Exception Location Fee (winching): \$40.00
 - (iii) Lot Storage Fee (per day): \$25.00
 - (iv) Inside Storage Fee (per day): \$35.00
 - (v) Interrupted Towing Fee: \$40.00
 - (vi) Service Fee (i.e., jump start, tire change, fuel, etc.): \$40.00
 - (vii) Snow Emergency Tow: \$50.00
 - (viii) Emergency Openings After Closing/Special Trips: \$50.00
 - (b) Where special or unusual circumstances require an exceptional amount of extra work or equipment, a higher fee may be charged, provided that the owner or operator of the vehicle to be serviced is informed of the additional fee in advance, if such person is available to be notified.
- (7) For the purposes of this Section, a vehicle is not considered to have been used in a violation that would render the vehicle eligible for towing, if:
 - (a) the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate law enforcement authorities after the theft was discovered or reasonably should have been discovered; or,

- (b) the vehicle was operating as a common carrier including, but not limited to taxicabs or buses and the violation occurred without the knowledge of the person in control of the vehicle.

(C) The hearing officer referred to in subsections (B)(3) and (B)(4) above shall be an attorney licensed to practice law in the State of Illinois for a minimum of **three (3) years** and is not an employee of the City. All hearings shall be recorded and at the conclusion of the final administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment.

24-8-5 USE OF MOTOR VEHICLE IN THE COMMISSION OF THE OFFENSE OF DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, DRUGS AND/OR INTOXICATING COMPOUNDS.

(A) *Driving under the influence of alcohol, drugs and/or intoxicating compounds* means any offense as defined in Section 11-501 of the Illinois Vehicle Code, **625 ILCS 5/11-501.**

(B)

- (1) A motor vehicle used in the commission of the offense of driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof as defined in this Section shall be subject to seizure and impoundment under this Section. The Owner of Record of such vehicle may be subject to a conviction as provided in such Code, and be liable to the City for Administrative Fees of **Five Hundred Dollars (\$500.00)**, in addition to fees for the towing and storage of the vehicle.
- (2) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Section, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. When the vehicle is towed, the police officer shall notify the owner, lessee, or person identifying him or herself as the owner or lessee of the vehicle, or any person who is found to be in control the vehicle at the time of the alleged offense, of the fact of seizure and of the vehicle owner's or lessee's right to request a preliminary administrative hearing as provided by Ordinance. The police officer shall also provide notice to said party that the vehicle will remain impounded until all administrative fees and all towing and storage charges are paid in full or pending completion of a final administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the municipality a bond equal to the Administrative Fees as provided by Ordinance and pays for all towing and storage charges. When no person is present to receive notification, the police officer will make a reasonable attempt to notify the Owner of Record of the same.
- (3) Whenever the owner or lessee of a vehicle seized pursuant to this Section requests, in writing, by hand delivery to the Police

Department/Elmwood City Hall, 201 West Main Street, Elmwood, Illinois, a preliminary administrative hearing on probable cause within **twelve (12) hours** after the seizure, a hearing officer, appointed by the City, shall conduct at City Hall such preliminary administrative hearing on probable cause within **seventy-two (72) hours** after the seizure, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary administrative hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime described in this Section, the hearing officer shall order the continued impoundment of the vehicle as provided in this Section unless the owner of the vehicle posts with the City a cash bond in the amount of **Five Hundred Dollars (\$500.00)** plus fees for towing and storing the vehicle. If the hearing officer determines that there is no such probable cause, the vehicle will be returned without assessment of any fees.

- (4) Within **ten (10) days** after a vehicle is seized and impounded pursuant to this Section, the City shall serve written notice on the owner, lessee, and any lienholder of record either by personal service or by first class mail to such interested party's address as registered with the Illinois Secretary of State of his or her right to request a final administrative hearing before the hearing officer that will be conducted to determine whether the subject vehicle is eligible for impoundment pursuant to this Section. Such notice shall state the fees and penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the fees and remaining at the towing/storage facility may be sold or disposed of by the City in accordance with applicable law. The interested party seeking a final administrative hearing must file a written request for such a hearing with the Chief of Police of the City, 201 West Main Street, Elmwood, Illinois no later than **fifteen (15) days** after the notice was mailed or otherwise served under this subsection. The hearing shall be scheduled and held no later than **forty-five (45) days** after the request for a hearing has been filed. All interested persons shall be given notice of the date, time and location of the final administrative hearing by personal service or by first class mail and shall have a reasonable opportunity to be heard at the hearing. The formal Rules of Evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in the commission of any of the violations described in this Section, the hearing officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays an Administrative Fee of **Five Hundred**

Dollars (\$500.00) plus fees for towing and storage of the vehicle. The Administrative Fees shall be a debt due and owing the City. However, if a cash bond has been posted, the bond shall be applied to the Administrative Fees. If the hearing officer determines that the vehicle was not used in commission of such a violation, he or she shall order the return of the vehicle or cash bond. Notwithstanding any other provision of this Section, whenever a person, corporation or business entity with a valid lien or valid security interest against a vehicle impounded under this Section has commenced foreclosure proceedings, possession of said vehicle shall be given to that person or agent for said entity with a valid lien, to refund the City the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of administrative fees and towing and storage fees imposed under this Section.

- (5) Any vehicle that is not reclaimed within **thirty-five (35) days** after a final administrative decision is rendered in favor of the City upon a hearing or against an Owner of Record who is in default or upon the failure of the Owner of Record to timely request a hearing, may be disposed of as an unclaimed vehicle as provided by law.
- (6) Fees for towing and storage of a vehicle under this Section shall be as follows:
 - (a) The following schedule of maximum fees shall be in effect for all tow calls received off the rotation tow list and shall be prominently displayed in at every office or storage facility:
 - (i) Standard Towing Fee (i.e., use of flatbed truck, clean-up, dollies, etc.): \$80.00
 - (ii) Exception Location Fee (winching): \$40.00
 - (iii) Lot Storage Fee (per day): \$25.00
 - (iv) Inside Storage Fee (per day): \$35.00
 - (v) Interrupted Towing Fee: \$40.00
 - (vi) Service Fee (i.e., jump start, tire change, fuel, etc.): \$40.00
 - (vii) Snow Emergency Tow: \$50.00
 - (viii) Emergency Openings After Closing/Special Trips: \$50.00
 - (b) Where special or unusual circumstances require an exceptional amount of extra work or equipment, a higher fee may be charged, provided that the owner or operator of the vehicle to be serviced is informed of the additional fee in advance, if such person is available to be notified.
- (7) For the purposes of this Section, a vehicle is not considered to have been used in a violation that would render the vehicle eligible for towing, if:

- (a) the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate law enforcement authorities after the theft was discovered or reasonably should have been discovered.

(C) The hearing officer referred to in subsections (B)(3) and (B)(4) above shall be an attorney licensed to practice law in the State of Illinois for a minimum of **three (3) years** and is not an employee of the City. All hearings shall be recorded and at the conclusion of the final administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment.

24-8-6 USE OF MOTOR VEHICLE IN THE COMMISSION OF THE OFFENSE OF DRIVING ON A SUSPENDED, REVOKED, EXPIRED OR INVALID DRIVER'S LICENSE.

(A) For purposes of this Section:

- (1) *Driving on a suspended or revoked license* means operation or use of a motor vehicle while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked as defined in Section 6-303 of the Illinois Vehicle Code, **625 ILCS 5/6-303**, except that driving on a suspended license shall not include suspensions for an unpaid citation (parking or moving) or due to failure to comply with emission testing.
- (2) *Driving on an expired driver's license* means operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of the Illinois Vehicle Code, **625 ILCS 5/6-101**, if the expiration is greater than **one (1) year**.
- (3) *Driving on an invalid license* means operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of Section 6-101 of the Illinois Vehicle Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age.

(B)

- (1) A motor vehicle used in the commission of the offense of driving on a suspended or revoked license, an expired license, or an invalid license shall be subject to seizure and impoundment under this Section. The Owner of Record of such vehicle may be subject to a conviction as provided in such Code, and be liable to the City for Administrative Fees of **Five Hundred Dollars (\$500.00)**, in addition to fees for the towing and storage of the vehicle.
- (2) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Section, the police officer shall provide for the towing of the vehicle to a facility controlled by the City or its agents. When the vehicle is towed, the police officer shall notify the owner, lessee, or person identifying him or herself as the owner or lessee of the vehicle, or any person who is found to be in control the vehicle at the time of the alleged offense, of the fact of seizure and of the vehicle owner's or lessee's right to request a preliminary

administrative hearing as provided by Ordinance. The police officer shall also provide notice to said party that the vehicle will remain impounded until all administrative fees and all towing and storage charges are paid in full or pending completion of a final administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the municipality a bond equal to the Administrative Fees as provided by Ordinance and pays for all towing and storage charges. When no person is present to receive notification, the police officer will make a reasonable attempt to notify the Owner of Record of the same.

- (3) Whenever the owner or lessee of a vehicle seized pursuant to this Section requests, in writing, by hand delivery to the Police Department/Elmwood City Hall, 201 West Main Street, Elmwood, Illinois, a preliminary administrative hearing on probable cause within **twelve (12) hours** after the seizure, a hearing officer, appointed by the City, shall conduct at City Hall such preliminary administrative hearing on probable cause within **seventy-two (72) hours** after the seizure, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary administrative hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime described in this Section, the hearing officer shall order the continued impoundment of the vehicle as provided in this Section unless the owner of the vehicle posts with the City a cash bond in the amount of **Five Hundred Dollars (\$500.00)** plus fees for towing and storing the vehicle. If the hearing officer determines that there is no such probable cause, the vehicle will be returned without assessment of any fees.
- (4) Within **ten (10) days** after a vehicle is seized and impounded pursuant to this Section, the City shall serve written notice on the owner, lessee, and any lienholder of record either by personal service or by first class mail to such interested party's address as registered with the Illinois Secretary of State of his or her right to request a final administrative hearing before the hearing officer that will be conducted to determine whether the subject vehicle is eligible for impoundment pursuant to this Section. Such notice shall state the fees and penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the fees and remaining at the towing/storage facility may be sold or disposed of by the City in accordance with applicable law. The interested party seeking a final administrative hearing must file a written request for such a hearing with the Chief of Police of the City, 201 West Main Street, Elmwood, Illinois no later than **fifteen (15) days** after the notice was mailed or otherwise served under this subsection. The hearing shall be

scheduled and held no later than **forty-five (45) days** after the request for a hearing has been filed. All interested persons shall be given notice of the date, time and location of the final administrative hearing by personal service or by first class mail and shall have a reasonable opportunity to be heard at the hearing. The formal Rules of Evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in the commission of any of the violations described in this Section, the hearing officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays an Administrative Fee of **Five Hundred Dollars (\$500.00)** plus fees for towing and storage of the vehicle. The Administrative Fees shall be a debt due and owing the City. However, if a cash bond has been posted, the bond shall be applied to the Administrative Fees. If the hearing officer determines that the vehicle was not used in commission of such a violation, he or she shall order the return of the vehicle or cash bond. Notwithstanding any other provision of this Section, whenever a person, corporation or business entity with a valid lien or valid security interest against a vehicle impounded under this Section has commenced foreclosure proceedings, possession of said vehicle shall be given to that person or agent for said entity with a valid lien, to refund the City the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of administrative fees and towing and storage fees imposed under this Section.

- (5) Any vehicle that is not reclaimed within **thirty-five (35) days** after a final administrative decision is rendered in favor of the City upon a hearing or against an Owner of Record who is in default or upon the failure of the Owner of Record to timely request a hearing, may be disposed of as an unclaimed vehicle as provided by law.
- (6) Fees for towing and storage of a vehicle under this Section shall be as follows:
 - (a) The following schedule of maximum fees shall be in effect for all tow calls received off the rotation tow list and shall be prominently displayed in at every office or storage facility:
 - (i) Standard Towing Fee (i.e., use of flatbed truck, clean-up, dollies, etc.): \$80.00
 - (ii) Exception Location Fee (winching): \$40.00
 - (iii) Lot Storage Fee (per day): \$25.00
 - (iv) Inside Storage Fee (per day): \$35.00
 - (v) Interrupted Towing Fee: \$40.00
 - (vi) Service Fee (i.e., jump start, tire change, fuel, etc.): \$40.00
 - (vii) Snow Emergency Tow: \$50.00

- (viii) Emergency Openings After Closing/Special Trips:
\$50.00
- (b) Where special or unusual circumstances require an exceptional amount of extra work or equipment, a higher fee may be charged, provided that the owner or operator of the vehicle to be serviced is informed of the additional fee in advance, if such person is available to be notified.
- (7) For the purposes of this Section, a vehicle is not considered to have been used in a violation that would render the vehicle eligible for towing, if:
 - (a) the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate law enforcement authorities after the theft was discovered or reasonably should have been discovered.

(C) The hearing officer referred to in subsections (B)(3) and (B)(4) above shall be an attorney licensed to practice law in the State of Illinois for a minimum of **three (3) years** and is not an employee of the City. All hearings shall be recorded and at the conclusion of the final administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment.

24-8-7 TOWING LIST. The Chief of Police shall maintain a list (the "Towing List") of qualified towing companies as determined by the Chief of Police. The Chief of Police shall consider all towing companies within **thirty (30) days** of the adoption of this Article for inclusion on the initial Towing List. In the event that more than **four (4) towing companies** apply within such **thirty (30) day** period, the Chief of Police shall select the **four (4)** which, in his or her judgment, are most qualified and all remaining towing companies shall be placed on file. Whenever a towing company is removed from the Towing List, the Chief of Police shall select the towing company, which in his judgment, is most qualified of those towing companies on file, which shall be updated upon the request of the Chief of Police. The decisions of the Chief of Police regarding selections to the Towing List shall be final.

The Chief of Police shall use the towing companies included on the Towing List, as needed, on a rotating basis. The Chief of Police shall not use any towing company not on the Towing List, unless all companies on the Towing List are unavailable. The Chief of Police is authorized to use towing companies out of sequence where proximity to the vehicle to be removed and estimated response time make it more practical to do so, or where size or weight of the vehicle to be removed requires the use of specialized equipment, or when circumstances, in the judgment of the Chief of Police, make such action practical. In the event that a car owner requests a particular towing company be used, the company may be used by the Chief of Police, and such shall not affect the towing company's place in the rotation of use under this Article.

24-8-8 INSURANCE. Each towing company shall maintain the following insurance companies:

- (A) **Garage Keeper's Policy.** A Garage Keeper's legal liability policy covering fire, theft, windstorm, vandalism and explosion, in the amount of **Fifty Thousand Dollars (\$50,000.00)** with each vehicle suffering damage being deemed a separate claim.

(B) **Garage Liability Policy.** A Garage Liability Policy covering operation of the owner's business, equipment or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of **Two Hundred Fifty Thousand Dollars (\$250,000.00)** for any **one (1) person** injured or killed and a minimum of **Five Hundred Thousand Dollars (\$500,000.00)** for more than **one (1) person** killed or injured in any accident and an additional **Fifty Thousand Dollars (\$50,000.00)** for property damage.

(C) Each policy required under this Section must contain an endorsement but the carrier provided **ninety (90) days'** notice to both the City and the insured in the event of any change in coverage under the policy.

24-8-9 DUTIES AND REQUIREMENTS OF LISTED TOWING COMPANIES.

All tow trucks shall be equipped with warning lights and other equipment required under State law and have working communication equipment. The towing company shall provide continuous **twenty-four (24) hour-per-day** service each day of the year, and there shall be an attendant available for all times for the purpose of receiving calls and receiving and releasing stored vehicles. The towing company shall assume all liability and shall indemnify and save the City harmless for such liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the towing company's employees or other persons and shall maintain the required insurance policies. The towing company shall not release any vehicle directly impounded by the City without authorization from the Chief of Police.

24-8-10 COSTS AND INSPECTION.

All costs incident to towing and storage shall be paid by the owner or person in charge or possession of the towed and stored vehicle to the towing company and a receipt for payment shall be issued to the said person. The City shall assume no liability or responsibility for any vehicle removed from any place without authority of the Chief of Police. The towing company shall maintain records and a claim check system to assure release of the vehicles to the rightful owner or authorized person. Such records shall be open to the Police Department for investigation of specific complaints and for compiling surveys under this Article. The towing company shall permit any person appointed by the Chief of Police to inspect wreckers, vault, security room or storage area at such times as the Chief of Police shall deem appropriate.

24-8-11 REMOVAL FROM TOWING LIST. The Chief of Police may remove a towing company from the Towing List in the event of any of the following:

(A) The towing company violates or fails to comply with any of the preceding provisions of this Article or any other local, state, or federal law or regulation.

(B) The towing company is no longer actively engaged in the towing business.

(C) The Chief of Police is not satisfied with the services rendered by the towing company to the City.

24-8-12 **TOWING AND STORAGE FEES.** In the event that a vehicle is towed as a result of those offenses listed under **Section 24-8-1** of this Article, the vehicle shall not release to the owner until the owner pays the required fees from the towing company for services rendered.

24-8-13 **ADMINISTRATIVE FEE FOR VIOLATION.** Any person who shall violate any provision of this Article, upon conviction, shall be subject to an Administrative Fee of **Five Hundred Dollars (\$500.00)**.

24-8-14 **SOLICITATION OF BUSINESS.** No towing company may respond to the scene of an accident or emergency for the purpose of towing a vehicle unless specifically called there by the Police Department or a person involved in the accident or emergency. This Section is intended to prohibit towing companies from soliciting business at the scenes of accidents and emergencies and shall not be construed to prohibit any towing company from contracting with any person, firm or corporation providing the towing company does not solicit towing contracts at the scenes of accidents and emergencies.

(Ord. No. 2012-12; 08-07-12)

ARTICLE IX – NON-HIGHWAY VEHICLES

24-9-1 DEFINITIONS.

(A) **"Golf Cart"** means a vehicle specifically designed and intended for the purpose 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)**

(B) **"Utility Terrain Vehicle (UTV)"** means any motorized off-highway device designed to travel primarily off-highway, **sixty-four (64) inches** or less in width, having a manufacturer's dry weight of **two thousand (2,000) pounds** or less, traveling on **four (4)** or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawnmowers. **(625 ILCS 5/1-168.8)**

(C) **"All-Terrain Vehicle (ATV)"** means any motorized off-highway device designed to travel primarily off-highway, **fifty (50) inches** or less in width, having a manufacturer's dry weight of **one thousand five hundred (1,500) pounds** or less, traveling on **three (3)** or more non-highway tires, designed with a seat or saddle for operator use, and handlebars or steering wheel for steering control, except equipment such as lawnmowers. **(625 ILCS 5/1-101.8)**

(D) **"City Streets"** means streets within the boundaries of and under the jurisdiction of the City of Elmwood, Illinois.

(E) **"State Roads"** means Illinois Route 8 and Illinois Route 78.

24-9-2 GOLF CARTS AND UTVs PERMITTED. The operation of golf carts, ATVs, and UTVs shall be permitted on the City Streets as set forth in this Article. Golf carts, ATVs, and UTVs shall only be permitted to make direct crossings upon or across State Roads as set forth in Section 11-1426.1 of the Illinois Vehicle Code **(625 ILCS 5/11-1426.1)** when such State Road is at an intersection with another public street, road or highway. **(Ord. No. 2016-11; 09-06-16)**

24-9-3RESERVED. **(Ord. No. 2016-11; 09-06-16)**

24-9-4COMPLIANCE WITH ILLINOIS VEHICLE CODE AND ELMWOOD MOTOR VEHICLE CODE. The operation of golf carts, UTVs and/or ATVs in the City shall be in accordance with all provisions of Chapter 24 of the Motor Vehicle Code of the City of Elmwood and the Illinois Vehicle Code **(625 ILCS 5/1-100 et seq.)**, including without limitation Section 11-1426.1 thereof **(625 ILCS 5/11-1426.1)**. All golf carts, UTVs and ATVs must have, at a minimum, the equipment and other items set forth in Section 11-1426.1(e) of the Illinois Vehicle Code **(625 ILCS 5/11-1426.1(e))**, which requires such vehicles have: brakes, a steering apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving emblem (as required of other vehicles in Section 12-709 of the Illinois Vehicle Code **(625 ILCS 5/12-709)**) on the rear of the vehicle, a headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front, a tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear, brake lights, turn signals, and any additional requirements which may be required by amendments to **ILCS 5/11-1426.1(e)** or the Illinois Motor Vehicle Code.

24-9-5 PERMITS. No person shall operate a golf cart, UTV or ATV within the City without first obtaining a permit, or being listed as an additional operator under a permit, as provided herein. Permits shall expire on **April 30th** of each year and will not be prorated. The cost of the permit for golf carts, ATVs, and UTVs shall be **Fifty Dollars (\$50.00)**. Applications for a permit shall be made on a form supplied by the City, shall be executed by the applicant and each additional operator and shall contain the following:

- (A) Name and address of applicant;
- (B) Name of liability insurance carrier and policy number;
- (C) The serial number, make, model and description of golf cart, UTV or ATV;
- (D) Waiver of liability; and,
- (E) Such other information as the City may require.

No permit shall be granted unless the following conditions are met:

- (A) The vehicle must be inspected and approved by the City police department;
- (B) A physically handicapped applicant or operator must submit a certificate signed by a physician, certifying that the applicant is able to safely operate a golf cart, UTV, or ATV on City Streets;
- (C) The applicant must provide evidence of insurance in compliance with the provisions of the Illinois Compiled Statutes regarding minimum liability insurance for passenger motor vehicles to be operated on the roads of the State of Illinois; and
- (D) The applicant must provide a copy of his or her valid driver's license.

(Ord. No. 2016-11; 09-06-16)

24-9-6 ADDITIONAL REQUIREMENTS. The following requirements shall apply to the operation of golf carts, UTVs and ATVs within the City:

- (A) The applicant and all operators must be at least **sixteen (16) years old** with a valid driver's license; and,
- (B) A city decal evidencing that a permit has been obtained shall be displayed on a rear panel or bumper of the vehicle.

(Ord. NO. 2015-13; 09-15-15)

24-9-7 VIOLATIONS. Any person who violates the provisions of the Article shall be subject to revocation of permit or non-renewal of permit at the discretion of the City Council and/or a monetary fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**.

24-9-8 IMPOUNDMENT. Golf carts UTVs and ATVs shall be subject to impoundment to the same extent as vehicles as set forth in **Article VIII, Impoundment of Vehicles**, of Chapter 24 - Motor Vehicle Code of the Revised Code of the City of Elmwood.

(Ord. No. 2015-04; 05-19-15)

PARKING VIOLATION

DATE _____ TIME _____ A.M.
P.M.

LIC. _____ STATE _____ YEAR _____

MAKE _____ COLOR _____ STYLE _____

VIOLATION _____

LOCATION _____

ST. STICKER _____

OFFICER _____ BADGE _____

PARKING VIOLATION

\$10.00 PENALTY

MUST BE PAID WITHIN TWO (2) DAYS

Fine may be paid by currency, check or money order. NO COINS. Payable to the City of Elmwood, Illinois. Place in this envelope and seal it and deposit it in a U.S. Mailbox with postage stamp affixed, or bring it to the City Clerk's Office.

PLEASE PRINT NAME AND ADDRESS BELOW

NAME _____

ADDRESS _____

CITY POLICE DEPARTMENT

ELMWOOD, ILLINOIS

SCHEDULE "A"

THROUGH AND STOP INTERSECTIONS

In accordance with the provisions of **Sections 24-3-1 and 24-3-3**, drivers of all vehicles shall stop before entering any of the following through streets at the intersection indicated:

I. ONE, TWO OR THREE-WAY STOPS.

STOP OR THROUGH STREET		STOP STREET (DIRECTION)
Althea St. (North)	at	Alley off of Campus Court (West)
Althea St. (North)	at	Fremont St. (West)
Althea St. (South)	at	Lynn St. (West)
Althea St. (South)	at	Peoria St. (West)
Althea St. (South)	at	Quality Hill St. (West)
Ash St. (East)	at	Danniels St. (North)
Ash St. (East)	at	Holly St. (North)
Ash St. (East)	at	Hurf St. (South)
Ash St. (East)	at	Ivy St. (North)
Ash St. (East)	at	Jarmon St. (North)
Ash St. (East)	at	Lakeview St. (North)
Ash St. (East)	at	Laurel St. (North)
Ash St. (East)	at	Palm St. (North)
Ash St. (East)	at	Putnam St. (North)
Ash St. (East)	at	Rose St. (Both)
Cypress St. (East)	at	Holly St. (South)
Cypress St. (East)	at	Palm St. (North)
Fairgrounds Way	at	Maple Ave. (East)
Knox St. (North)	at	Ash St. (East)
Knox St. (North)	at	Dearborn St. (East)
Knox St. (North)	at	High St. (West)
Laurel St. (North)	at	E. Cypress St. (East)
Lilac St. (North)	at	Butternut St. (Both)
Lilac St. (North)	at	Cypress St. (Both)
Lilac St. (South)	at	Cedar St. (West)
Lilac St. (South)	at	Hawthorn St. (Both)
Lilac St. (South)	at	Linden St. (East)
Lilac St. (South)	at	Tulip St. (West)
Lilac St. (South)	at	Willow St. (West)

STOP OR THROUGH STREET		STOP STREET (DIRECTION)
Magnolia St. (North)	at	Ash St. (Both)
Magnolia St. (North)	at	Butternut St. (Both)
Magnolia St. (North)	at	Cypress St. (Both)
Magnolia St. (North)	at	Evergreen St. (Both)
Magnolia St. (South)	at	Hawthorn St. (Both)
Magnolia St. (North)	at	Maple St. (East)
Magnolia St. (North)	at	South Gate Drive (West)
Main St. (East)	at	Holly St. (North)
Main St. (East)	at	Ivy St. (North)
Main St. (East)	at	Laurel St. (North)
Main St. (East)	at	Rose St. (Both)
Main St. (East)	at	Rural St. (Both)
Main St. (West)	at	Althea St. (Both)
Main St. (West)	at	Elm St. (Both)
Main St. (West)	at	Knox St. (Both)
Main St. (West)	at	Lilac St. (Both)
Main St. (West)	at	Locust St. (Both)
Main St. (West)	at	Morgan St. (South)
Main St. (West)	at	Walnut St. (Both)
Maple Ave. (East)	at	Rose St. (North)
Morgan St. (North)	at	Alley off of Campus Court (East)
Morgan St. (North)	at	Ash St. (West)
Morgan St. (North)	at	Butternut St. (West)
Morgan St. (North)	at	Dearborn St. (West)
Morgan St. (North)	at	High St. (West)
Morgan St. (South)	at	Mound St. (West)
Mound St. (West)	at	Locust St. (Both)
Walnut St. (North)	at	Ash St. (Both)
Walnut St. (North)	at	Butternut St.
Walnut St. (North)	at	High St. (Both)

II. FOUR WAY STOP INTERSECTIONS.

Althea St.	at	Butternut St.
Althea St.	at	Hawthorn St.
Dearborn St.	at	Walnut St.
Elm St.	at	Dearborn St.
Hurff Dr.	at	Fairgrounds Way/Hickory Run (Both)
Main St.	at	Magnolia St.
Rose St.	at	Hawthorn St.

(Ord. No. 2007-3; 01-02-07)

SCHEDULE "B"

ONE-WAY STREETS OR ALLEYS

In accordance with **Section 24-3-2** the following streets or alleys are designated one-way:

STREET - DIRECTION	LOCATION
Fremont St. (East)	From N. Morgan to N. Althea St. (#92-7)
Hawthorn St. (East)	From Morgan St. to Althea St.
Morgan St. (North)	From W. Main St. to Maple Row (#92-8)
Maple Row St. (West)	From N. Morgan St. to N. Walnut St. (#07-11)
Walnut St. (South)	From W. Maple Row St. to W. Ash St.

(Ord. No. 2021-01; 05-07-21)

SCHEDULE "C"

YIELD INTERSECTIONS

In accordance with **Section 24-3-4**, drivers of all vehicles shall stop before entering any of the following through streets at the intersection indicated:

STREET - DIRECTION		YIELD STREET - LOCATION
Althea St.	at	Cypress St. (East) (#2013-7)
Ash St.	at	Lilac St. (North)
Cypress St.	at	Danniels St. (North)
Cypress St.	at	Holly St. (North)
Harrison St.	at	Putnam St. (North)
High St.	at	Elm St. (North)
High St.	at	Locust St. (North)
Ivy St.	at	Cypress St. (Both)
Jarmon St. (South)	at	Ash St. (East)
Lilac St.	at	Evergreen St. (Both)
Locust St.	at	Dearborn St. (Both)
Morgan St.	at	Lynn St. (West)
Morgan St.	at	Quality Hill St. (West)
Mound St.	at	Elm St. (Both)
Mound St.	at	Walnut St. (Both)
Rose St.	at	Cypress St. (Both)
Rose St.	at	Evergreen St. (Both)
Rural St.	at	Evergreen St. (East)
Walnut St.	at	Peoria St. (East)

SCHEDULE "D"
SPEED LIMITS

In accordance with **Section 24-4-2(F)**, the following speed limits shall prevail:

STREET - DIRECTION	LOCATION
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I. 20 MPH Speed Limit.

Fremont St.	From Morgan St. to N. Althea St.
Hawthorn St.	From Morgan St. to Althea St
Hurff Dr.	From Magnolia St. to Ash St.
Morgan St.	From Maple Row to W. Main St.

(Ord. No. 2015-12; 08-04-15)

II. 25 MPH Speed Limit.

Maple Ave.	From Magnolia St. to Fairgrounds Way (#2007-4)
N. Walnut St.	From Dearborn St. to Maple Row (#2017-02)

III. 30 MPH Speed Limit.

E. Ash St.	From Magnolia St. to Jarmon St.
S. Lilac St.	From Linden St. to City Limit
E. Main St.	From Rose St. to City Limit

SCHEDULE "E"
SCHOOL ZONES

In accordance with **Section 24-4-2(G)**, the following streets are designated as special school zones or intersections:

I. GRADE SCHOOL

STREETS

LOCATION

Althea St.	From Peoria St. to Main St.
Hawthorn St.	From Morgan St. to Lilac St.
Lilac St.	From Linden St. to Main St.
Lynn St.	From Morgan St. to Althea St.
Main St.	From Morgan St. to Lilac St.
Morgan St.	From Lynn St. to Main St.

II. HIGH SCHOOL

Althea St.	From Fremont St. to Ash St.
Fremont St.	From Morgan St. to Althea St.
Morgan St.	From Fremont St. to Maple Row St.

III. INTERSECTIONS

Althea St.	at Main St.
Althea St.	at Hawthorn St.

SCHEDULE "F"

RESTRICTED PARKING ZONES

In accordance with **Section 24-6-3**, the following streets and alleys are restricted parking zones:

STREET – SIDE	LOCATION AND RESTRICTION
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I. PARALLEL PARKING

Evergreen St. (South)	From Magnolia St. To Alley (West)
Evergreen St. (North)	From Alley to Lilac St. (West)
Lilac St. (West)	From Main St. to Cypress St. (North)
Lilac St. (East)	From Main St. to Parking Lot (South)
Magnolia St. (East)	From Main St. to Hawthorn St. (South)
Magnolia St. (Both)	From Main St. to Evergreen St. (North)
Main St. (Both)	From City Limit to City Limit

II. DIAGONAL PARKING

Evergreen St. (South)	From Magnolia St. To Rose St. (East)
Hawthorn St. (North)	From Parking Lot to Magnolia St. (East)
Hawthorn St. (North)	From Rose St. to End of Parking Lot (East)
Hawthorn St. (South)	From Magnolia St. to Alley (East)
Magnolia St. (East)	From Hawthorn St. to Lynn St. (South)
Magnolia St. (West)	From Main St. to Lynn St. (South)
Rose St. (Both)	From Main St. to Alley (South)
Rose St. (East)	From Alley to Hawthorn St. (South)
Rose St. (West)	From Evergreen to Main St. (North)

III. LIMITED TIME PARKING

Evergreen St. (Both)	From Rose St. to Magnolia St. – No Parking 2:30 A.M. to 5:00 A.M.
Evergreen St. (Both)	From Rose St. to Magnolia St. – 2 Hour Parking Rest of Time

MOTOR VEHICLE CODE

Hawthorn St. (Both)	From Lilac St. to Rose St. (East) – No Parking 2:30 A.M. to 5:00 A.M.
Lilac St. (Both)	From Hawthorn St. to Evergreen St. – No Parking 2:30 A.M. to 5:00 A.M.
Lilac St. (West)	From Main St. to Evergreen St. (North) - 30 Minute Parking
Magnolia St. (Both)	From Evergreen St. to Hawthorn St. – No Parking 2:30 A.M. to 5:00 A.M.
Magnolia St. (Both)	From Evergreen St. to Main St. – 2 Hour Parking Rest of Time
Main St. (Both)	From Rose St. to Lilac St. – No Parking 2:30 A.M. to 5:00 A.M.
Main St. (Both)	From Rose St. to Lilac St. – 2 Hour parking Rest of Time

IV. NO PARKING

Evergreen St. (North)	From Alley to Magnolia St. (East)
Hawthorn St. (North)	From Morgan St. to Althea St.
Hawthorn St. (South)	From Alley to Rose St. (East)
Lilac St. (Both)	From Lynn St. to South City Limits
Magnolia St. (West)	From Evergreen to Driveway (North)
Magnolia St. (West)	From Fire Department Driveway
Maple Ave. (Both)	From Chestnut Dr. (East) to Magnolia St. (#2016-12)
Morgan St. (West)	From Main St. to Maple Row

(Ord. No. 2020-03; 03-05-20)

SCHEDULE "H"

HANDICAPPED PARKING SPACES

In accordance with the provisions of **Section 24-6-5**, the following areas are hereby designated as "handicapped parking spaces", to-wit:

- The first two parking spaces located immediately to the West of the rear entrance of the doctor's office located at 120 West Main Street; said space being located on the North side of the South Municipal Parking Lot.
- The first parking space located on the South side of Evergreen Street lying West of the corner of Evergreen Street and Magnolia Street.
- A parking space situated in the North Municipal Parking Lot located at the corners of Evergreen Street and Lilac Street; said space being the first parking space located directly West of the rear entrance of the establishment located at 112 North Magnolia Street.
- The second parking space located on the South side of Cypress Street West of the corner of Cypress Street and Althea Street.
- The first parking space located on the East side of Lilac Street lying North of the corner of Lilac Street and Main Street.
- The first parking space located on the North wide of Main Street lying East of the corner of Rose Street and Main Street.

(Ord. No. 2021-02; 07-08-21)

SCHEDULE "J"

LOAD LIMITS

In accordance with **Section 24-6-6** the following shall prevail:

<u>STREET (DIRECTION)</u>	<u>LOCATION – LIMIT 8 TONS</u>
E. Ash St.	From Laurel St. to City Limit
N. Knox St.	From Main St. to City Limit
S. Lilac St.	From Linden St. to City Limit
E. Main St.	From Rose St. to City Limit

SCHEDULE "K"
SNOW ROUTES

In accordance with **Section 24-6-10** the following shall prevail:

<u>STREET (DIRECTION)</u>	<u>LOCATION</u>
S. Lilac St.	From Main St. to the South City Limit
N. Magnolia St.	From Evergreen St. to the North City Limit
E. Main St.	From Rose St. to the East City limit (#2014-21)
W. Main St.	From Lilac St. to the West City Limit

(Ord. No. 2013-1; 01-15-13)

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, 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 **twenty (20) rods** 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 **fifty (50) rods** 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) **Bodies of Water.** To create any condition, through the improper maintenance of a swimming pool or wading pool, or by causing any action which alters the condition of a natural body of water, so that it harbors mosquitoes, flies or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(J) **Storing 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 and dangerous to the health of individuals or the public.

(K) **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply, or from one underground stratum to another, or to permit concrete bases, discarded machinery and materials to remain around any oil or gas well, or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well. **(Ord. No. 2016-06; 04-12-16)**

(L) **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.

(M) **Business.** To establish, maintain and carry on any offensive or unwholesome business or establishment within the limits of the City or within the distance of **one (1) mile** beyond the City limits. **(See 65 ILCS Sec. 5/11-42-9) (Ord. No. 95-5; 04-18-95)**

(N) **Filthy Premise Conditions.** To keep or suffer to be kept in a foul, offensive, nauseous or filthy condition, any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by him, or any railroad car, building, yard, grounds, and premises belonging to or occupied by him.

(O) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(P) **Litter on Streets.** It shall be unlawful for any person to deposit or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of 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.

(Q) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, ashes, garbage, refuse, hazardous waste, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any lot, piece or parcel of land or upon any public or private alley, street or public way within the City.

(R) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(S) **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.

(T) **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.

(U) **Motor Transport Engines.** To operate motor 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.

(V) **Unplugged Wells.** 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.

(W) **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.

(X) **Discarded Machinery or Materials.** To store, keep or maintain outside of a closed building the following: (a) used appliances, used or dilapidated furniture, bathroom fixtures, tires, old iron or metal, motor vehicle parts and all other parts, tools, machinery, and equipment in inoperable condition, for longer than a two-week time period; or, (b) used lumber, bricks, blocks, or other building salvage or construction material, unless such material is intended for reuse and arranged in an orderly fashion. **(Ord. No. 2016-06; 04-12-16)**

(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 offense which is a nuisance according to the common law of the land or made such by statute of the State.

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, maintaining of any nuisance shall be dangerous or detrimental to health.

25-1-3 NOTICE TO ABATE. Whenever the Police Chief or a designated representative 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) A statement suggesting how such abatement might be accomplished;
- (E) The date by which abatement must be completed;
- (F) A statement indicating that if the nuisance is not abated by the date prescribed this Municipality will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-4 **ABATEMENT OF NUISANCE BY CITY; UNKNOWN OWNER.** It shall be the duty of the Chief of Police to proceed at once upon the expiration of the time specified in the notice to cause such nuisance to be abated, provided, however, that whenever the owner, occupant, agent, or person in possession or control of any premises in or upon which any nuisance may be found in unknown or cannot be found, the Chief of Police shall proceed to abate such nuisance without notice. In either case, the expense of such abatement shall be paid by the person who may have created or suffered such nuisance to exist, in addition to any penalty or fine.

25-1-5 **FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The City shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

(See 65 ILCS Sec. 5/11-60-2 and 720 ILCS Secs. 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 and Johnson 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 or weeds exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **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**, such person may be fined as provided in this Code and/or 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. **(See Penalty, Section 1-1-20)**

25-2-6 **LIEN.** Charges for such weed 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.**

(See 65 ILCS Secs. 5/11-20-6 and 5/11-20-7)

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**, such person may be fined as provided in this Code and/or 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. **(See Section 1-1-20)**

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.

(See 65 ILCS Sec. 5/11-20-13 and 720 ILCS Sec. 5/47-10)

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 **DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

"INOPERABLE MOTOR VEHICLES" shall mean any motor vehicle including farm implements, trucks or other vehicles which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. For purposes of this Article, a vehicle shall be presumed to be "inoperable" if it cannot be legally operated on the public highways of the State of Illinois. "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 or the owner or occupant of the premises where such inoperable vehicle is located, or any other person who is found to have control over such inoperable vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If such person fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, he or she may be fined as provided in this Code and the Mayor may authorize the Police Department to remove the inoperable vehicle(s) 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 place of a licensed business engaged in the wrecking or junking of motor vehicles.

(Ord. No. 97-6)
(See 65 ILCS Sec. 5/11-40-3)

ARTICLE V - OPEN BURNING

25-5-1 DEFINITIONS. Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

"GARBAGE OR HOUSEHOLD TRASH" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

25-5-2 BURNING PROHIBITED. It shall be unlawful to cause or allow open burning of agricultural waste, household trash, garbage or other materials prohibited herein.

25-5-3 RESTRICTIONS ON BURNING OF LANDSCAPE WASTE. The open burning of landscape waste shall be permitted only on the following conditions:

(A) Landscape waste shall be burned on the premises on which such waste is generated; and

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C) Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D) Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E) No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F) No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

(G) Such burning may be ignited or fueled using paper or cardboard.

25-5-4 **BONFIRES/RECREATIONAL FIRES.** A bonfire or other recreational fire shall be permitted only on the following conditions:

- (A) It shall be no larger than **five (5) feet** in diameter;
- (B) Fuel for a bonfire/recreational fire shall consist of seasoned, dry firewood to be ignited with a small quantity of paper; and,
- (C) No bonfires/recreational fires shall be permitted between the hours of **1:00 A.M.** and **6:00 A.M.**

25-5-5 **LOCATION.** The location of any open burning allowed by this Article shall not be less than **twenty-five (25) feet** from any structure, and provisions shall be made to prevent the fire from spreading to within **twenty-five (25) feet** from any structure. No open burning shall occur on any public streets, sidewalks or alleys.

25-5-6 **MITIGATION.** Any open burning allowed by this Article shall be of the minimum size necessary for the intended purposes, and the appropriate fuel shall be chosen to minimize the generation and emission of air contaminants.

25-5-7 **OTHER PROHIBITED MATERIALS.** Open burning of tires, oils, plastics, chemicals, flammables or hazardous or toxic materials is prohibited, and any open burning otherwise allowed by this Article shall not be used for the disposal of any other waste materials or substances except those expressly allowed by **Sections 25-5-3** and **25-5-4** of this Article.

25-5-8 **ATTENDANCE.** Any open burning shall be constantly attended by a responsible adult until the fire is extinguished.

25-5-9 **FIRE EQUIPMENT.** Fire extinguishing equipment (including, but not limited to, garden hoses, buckets of water, rakes, fire extinguishers and shovels) shall be available for immediate use at the location of all open burning.

25-5-10 **OFFENSIVE OR OBJECTIONAL FIRES.** The Police Department or any other person so designated by the Mayor or City Council shall:

- (A) prohibit open burning which will be offensive, hazardous or objectionable due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires noxious or hazardous and
- (B) order the extinguishment of any open burning which creates or contributes to a hazardous, noxious, offensive or objectionable situation.

25-5-11 BUSINESS DISTRICT. No open burning is allowed in the business district within the City limits, unless it is contained in a properly constructed incinerator.

25-5-12 EXCEPTIONS. This Article shall not apply to small open flames necessary for welding, acetylene torches and similar commercial applications, highway safety flares, cooking grills and the like.

(Ord. No. 97-2; 10-21-97)

CITY OF ELMWOOD

NOTICE TO ABATE NUISANCE

TO: _____

You are hereby notified that you have committed the offense of causing, creating, keeping, establishing or otherwise permitting a nuisance to exist and/or that property owned, occupied, possessed or controlled by your, as the case may be, located at _____ and situated within the City Limits, contains such a nuisance as defined and prohibited by Chapter 25 of the City Code. The said nuisance is generally described as follows, to-wit: _____

[Para. _____, Section - - _____, Art. I, Chapter 25 of the City Code].

You are required to abate said nuisance within **five (5) days** from the date of this Notice in such manner as the Mayor shall prescribe.

If you fail, refuse or neglect to abate said nuisance as prescribed, you may be fined or otherwise penalized pursuant to the general penalty provisions of the City Code, and/or the Chief of Police of the City of Elmwood, Illinois, may proceed to abate such nuisance without notice, and in either case, the expense of such abatement shall be paid by you.

MAYOR
CITY OF ELMWOOD

Dated and Served this _____ day of _____, _____.

NOTICE

UNLAWFUL WEED GROWTH

TO: _____

You are hereby notified that property owned by you and/or occupied by you, as the case may be, located at _____ and situated within the City Limits, contains unlawful weed growth as defined and prohibited by **Chapter 25** of the City Code.

You are required to cut and remove all such weed growth within **five (5) days** from the date of service of this Notice.

If you fail, refuse or neglect to cut and remove such weed growth, you may be fined pursuant to the general penalty provisions of the City Code, and/or the City may proceed with the cutting, removal and abatement thereof, and the cost of such weed growth cutting, removal and abatement by the City shall be paid by you, and if not paid, shall be a lien on the premises as provided in the City Code.

MAYOR
CITY OF ELMWOOD

Dated and Served this _____ day of _____, _____.

NOTICE

UNLAWFUL GARBAGE AND/OR DEBRIS

TO: _____

You are hereby notified that the property owned by you and/or occupied by you, as the case may be, located at _____ and situated within the City Limits, contains garbage and/or debris as defined and prohibited by **Chapter 25** of the City Code.

You are required to remove all such material within **five (5) days** from the date of service of this Notice.

If you fail, refuse or neglect to remove and abate such garbage and/or debris, you may be fined pursuant to the general penalty provisions of the City Code, and/or the City may proceed with the removal and abatement thereof, and the cost of the garbage and/or debris removal or abatement by the City shall be paid by you, and if not paid, shall be a lien on the premises as provided in the City Code.

MAYOR
CITY OF ELMWOOD

Dated and Served this _____ day of _____, ____.

NOTICE

INOPERABLE MOTOR VEHICLES

TO: _____

You are hereby notified that the Mayor of the **CITY OF ELMWOOD** has determined that you own or are otherwise in control of an inoperable vehicle(s) described as _____, located at _____ and situated within the City Limits, as defined and prohibited by **Chapter 25** of the City Code.

You are required to dispose of such inoperable motor vehicle(s) within **seven (7) days** from the issuance of this Notice.

If you fail, refuse or neglect to dispose of such vehicle(s) within said time period, you may be fined pursuant to the general penalty provisions of the City Code, and/or the Mayor of the **CITY OF ELMWOOD**, Illinois, may authorize a towing service to remove and take possession of the said inoperable motor vehicle(s) or parts thereof.

MAYOR
CITY OF ELMWOOD

Dated and Served this _____ day of _____, ____.

CHAPTER 27

OFFENSES

ARTICLE I – DEFINITIONS

27-1-1 **MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-16; 2-19 and 2-20**, as approved, adopted and amended are hereby adopted by the City, as fully as if set out herein. **(See 65 ILCS Sec. 5/1-3-2)**

27-1-2 **CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City; the provisions thereof shall be controlling within the corporate limits of the City; provided, however, the penalties as provided by this Code shall apply. **(See 65 ILCS Sec. 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 **DISTURBING LAWFUL ASSEMBLIES.** It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(See 65 ILCS Sec. 5/11-5-2)**

27-2-2 **UNLAWFUL ASSEMBLY.** It shall be illegal for persons to assemble unlawfully in the following situations:

- (A) The use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law; or
- (B) The assembly of **two (2)** or more persons to do an unlawful act; or
- (C) The assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence. **(See 720 ILCS Sec. 5/25-1) (See 65 ILCS Sec. 5/11-5-2)**

27-2-3 **DISTURBING THE PEACE.** No person shall disturb the good order of society, or the peace of any private family, or of any congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or immoral conduct. **(See 65 ILCS Sec. 5/11-5-2)**

27-2-4 BARBED WIRE AND ELECTRIC FENCES. It shall be unlawful for any person to erect or maintain any electrically-charged fence or barbed wire or other such sharp, pointed fence below **eight (8) feet** in height, but in no event shall such fence be situated anywhere within **fifty (50) feet** of any public street, sidewalk, alley, park or other public way or place.

27-2-5 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.

27-2-6 SALE OF TOBACCO, SMOKING HERBS OR ACCESSORIES TO MINORS. No minor under **eighteen (18)** years of age shall buy or possess any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, or any tobacco accessories or smoking herbs. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, or any tobacco accessories or smoking herbs, to any minor under **eighteen (18) years of age.**

For the purpose of this Section, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing. **(See 720 ILCS Sec. 675/1)** "Tobacco accessories" shall mean cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines, and other items, designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute; and "smoking herbs" shall mean all substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed or other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials. **(See 720 ILCS 685/3) (Ord. No. 2003-5; 11-18-03)**

27-2-7 UNLAWFUL CONDUCT ON A PUBLIC WAY. It shall be unlawful to impede or interfere with another person's use of a sidewalk or other public way.

27-2-8 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.

27-2-9 RENTING PREMISES FOR UNLAWFUL PURPOSES. It shall be unlawful for any person to knowingly rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-10 **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 being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(See 65 ILCS Sec. 5/11-5-3)**

27-2-11 **BEGGING.** No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. **(See 65 ILCS Sec. 5/11-5-4)**

27-2-12 **CONCEALED WEAPONS.** No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or colt, or sling-shot, or cross knuckles or knuckles of lead, brass or other metal, or any switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to any person properly licensed to carry concealed weapons under the laws of the State of Illinois, including but not limited to the Firearm Concealed Carry Act **(430 ILCS 66/1 et seq.)**, any officers or members of the Police Department, any sheriff or deputy sheriff or constable of this State, or any United States Marshal. **(Ord. No. 2015-07; 07-07-15)**

27-2-13 **DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful for any person to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any person from discharging a firearm when lawfully defending his person or property; nor to any person to discharge a firearm when lawfully performing any military or military veteran ceremonies; nor to any firearm ranges authorized by the City.

27-2-14 **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.

27-2-15 **STORAGE OF EXPLOSIVES.**
 (A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.
 (B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds.** **(See 65 ILCS Sec. 5/11-8-4)**

27-2-16 **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.

27-2-17 **LOITERING.**

(A) **Definition of Loitering.** As used in this Section, the term "Loitering" shall mean remaining or lingering in an area in an aimless or idle manner.

(B) **Loitering Prohibited.** Loitering on public property, or on any property commonly accessible to the general public for commercial or other purposes, shall be prohibited.

(C) **Penalties.** Any person who violates the provisions of this Section shall be subject to the penalties as in this Code provided.

27-2-18 **ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. **(See 720 ILCS Sec. 505/1)**

27-2-19 **HALLOWEEN CURFEW.** It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the City, either masked or unmasked, except on a day designated by the Village Board and no later than **8:00 P.M.** **(See 65 ILCS Sec. 5/11-1-5)**

27-2-20 **CURFEW.**

(A) **Age; Hours.** It is unlawful for a person less than **eighteen (18) years** of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least **twenty-one (21) years** of age approved by a parent or legal guardian, or unless engaged in a business or occupation which the laws of this State authorize a person less than **eighteen (18) years** of age to perform:

- (1) Between **11:00 P.M.** on Friday and **6:00 A.M.** of the following Saturday;
- (2) Between **11:00 P.M.** on Saturday and **6:00 A.M.** of the following Sunday.
- (3) Between **10:00 P.M.** on Sunday through Thursday, inclusive, and **6:00 A.M.** on the following day. **(Ord. No. 97-5; 12-02-97)**

(B) **Parent, Guardian Responsibility.** It shall be unlawful for a parent, legal guardian or other person to permit a person in his or her custody or control to violate **Section 27-1-1** of this Chapter. **(Ord. No. 97-5; 12-02-97)**

(C) **Penalty for Violations.** Any person violating the provisions of this Chapter shall be subject to the penalties as in this Code provided. **(Ord. No. 95-1; 01-05-95)**

27-2-21 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.

27-2-22 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.

27-2-23 DEPOSITING SNOW AND ICE RESTRICTED. No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS Sec. 5/11-80-13)**

27-2-24 EXCAVATIONS. It shall be unlawful for any person who owns, maintains, 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. This Section shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS Sec. 605/1)**

27-2-25 DISORDERLY CONDUCT.

(A) **Definition of Disorderly Conduct.** A person conducts himself/herself in a disorderly manner for the purposes of this Section when he/she knowingly:

- (1) Does any act which in the circumstances would probably and naturally provoke a breach of the public peace; or
- (2) Does or makes any unreasonable or offensive act, utterance, gesture or display which, under the circumstances, creates a clear and present danger of a breach of peace or imminent threat of violence; or
- (3) Does any act which unreasonably disturbs the privacy, peace or tranquility of an individual; or
- (4) Does any act which would probably and naturally endanger the health or safety of the public; or
- (5) Refuses or fails to obey an order given to him/her by a peace officer, to cease and desist any peaceful conduct or activity when it is likely to produce a breach of the peace, where there is an imminent threat of violence and where the police have made reasonable efforts to protect the otherwise peaceful conduct or activity; or
- (6) Fails to obey an order given to him/her by a peace officer to disperse under circumstances where **three (3)** or more persons are committing acts of disorderly conduct in the immediate vicinity of such nature that the acts are likely to cause substantial harm or injury or serious inconvenience to the public; or
- (7) Fails to obey an order to him/her by a peace officer to perform a certain action when the peace officer is lawfully engaged in the performance of his or her duties in investigating a compliant or an alleged violation of the law; or
- (8) Assembles with **three (3)** or more persons for the purpose of using force or violence without lawful cause and which is likely in the circumstances to breach the peace of the public; or
- (9) Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace.
- (10) Transmits in any manner to the Fire Department of any Village, town, village 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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.

- (15) Transmits a false report to the Department of Children and Family Services.

(See 720 ILCS Sec. 5/25-1)

(B) **Disorderly Conduct Prohibited.** No person shall conduct himself/herself in a disorderly manner in the City of Elmwood at any time.

(Ord. No. 97-7; 12-02-97)

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; or
 - (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
 - (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.
- (E) It shall be unlawful to commit a petty theft.

(See 720 ILCS Sec. 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;
- (B) recklessly, by means of fire or explosive, damage property of another;
- (C) knowingly start a fire on the land of another without his consent;
- (D) knowingly injure a domestic animal of another without his consent; or
- (E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. **(See 720 ILCS Sec. 5/21-1)**

27-3-3 **CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT.** No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. **(See 720 ILCS Sec. 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, remove, damage or destroy any of the street signs or parts thereof located in the City.

27-3-6 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(See 720 ILCS Sec. 5/32-9)**

27-3-7 **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.

ARTICLE IV

PUBLIC SAFETY

27-4-1 **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)**

27-4-2 **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)

27-4-3 **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 evoke into a crime unless the language provokes a breach of the peace or constitutes fighting words evoking some violent response. **(See 65 ILCS Sec. 5/11-1-1)**

27-4-4 **IMPERSONATION OR INTERFERENCE 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, or attempt to prevent any such officer from arresting any person, either by force or by giving notice to such person, or attempt to rescue from such officer any person in his custody, or impersonate any of the members of the Police Force of this City, or maliciously or with the intention of deceiving any person, wear the uniform of or a uniform similar to that worn by the members of the Police Department, or use any of the signs, signals or devices adopted and used by the Police Department. **(See 65 ILCS Sec. 5/32-5.1)**

27-4-5 **AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or to 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 to molest or interfere with any officer or other

person so legally having him in charge, or in any manner, to aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or to supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(See 720 ILCS Sec. 5/31-7)**

27-4-6 **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.

27-4-7 **ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(See 720 ILCS Sec. 5/31-6(C))**

ARTICLE V - ANTI-LITTER

27-5-1 DEFINITIONS. For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the City.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 LITTERING PROHIBITED. No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 PREVENTION OF SCATTERING. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 RECEPTACLES - UPSETTING OR TAMPERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 SIDEWALKS AND ALLEYS FREE FROM LITTER. Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

27-5-6 OWNER TO MAINTAIN PRIVATE PREMISES.
(A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.
(B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 LITTERING FROM VEHICLES.
(A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.

(B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the City unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the City.

27-5-9 LITTER IN PARKS. No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 HANDBILLS.

(A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises 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.

(F) **Posting Bills.** Except as may be authorized or required by law, 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 other public place, 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.

27-5-11 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.

27-5-12 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.

27-5-13 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

27-5-14 THROWING OBJECTS FROM MOTOR VEHICLES. Pursuant to the police powers in **65 ILCS Sec. 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 from the vehicle.

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)**

(See 65 ILCS Sec. 5/11-80-15)

ARTICLE VI - TRESPASS

27-6-1 TRESPASSES PROHIBITED. It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

27-6-2 SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION.
Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

(See 65 ILCS Sec. 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 **eleven (11) 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.

ARTICLE VIII

POSSESSION AND USE OF CANNABIS AND DRUG PARAPHERNALIA

27-8-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"CANNABIS" shall include marijuana, hashish, and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant and any compound, manufacture, sale, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction or chemical synthesis; and shall not include the mature stalks, oil or cake made from the seeds of such plants, any other compound, manufacture, salt derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

"CASUAL DELIVERY" shall include the delivery of not more than **ten (10) grams** of any substance containing cannabis without consideration.

"CONTROLLED SUBSTANCE" shall include the meaning ascribed to it in Section 201 of the "Illinois Controlled Substance Act," as if that definition were incorporated herein.

"DELIVER" OR "DELIVERY" shall include the actual constructive or attempted transfer of the possession of cannabis, with or without consideration, whether or not there is an agency relationship.

"DRUG PARAPHERNALIA" shall include all equipment, products and materials of any kind which are peculiar to and marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the "Cannabis Control Act" or the "Illinois Controlled Substance Act." It includes, but is not limited to:

(A) Kits peculiar to and marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;

(B) Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant, which is cannabis or a controlled substance;

(C) Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;

(D) Diluents and adulterants peculiar to and marketed for cutting cannabis or a controlled substance by a private person;

(E) Objects peculiar to and marketed for the use of ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish or hashish oil into the human body including, where applicable, the following items:

- (1) water pipes;
- (2) carburetion tubes and devices;
- (3) smoking and carburetion masks;
- (4) miniature cocaine spoons and cocaine vials;
- (5) carburetor pipes;
- (6) electric pipes;
- (7) air-driven pipes;
- (8) chillums;
- (9) bongs; and,
- (10) ice pipes or chillers.

(F) Any items whose purpose, as announced or described by the seller, is for use in violation of this Article **(720 ILCS 550/1, et seq. and 720 ILCS 570/100, et seq.)**

"GARBAGE" shall include refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products.

"LOCAL AUTHORITIES" shall include the City and/or its police force.

"MANUFACTURE" shall include the production, preparation, propagation, compounding, conversion or processing of cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale.

"PERSON" shall include any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

"PRODUCE" OR "PRODUCTION" shall include planting, cultivating, tending or harvesting.

"STATE" shall include the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

"SUBSEQUENT OFFENSE" shall include an offense under this Act, the offender of which, prior to his conviction of the offense, has at any time been convicted under this Article or under any laws of the United States or of any state relating to cannabis or any controlled substance as defined in the Illinois Controlled Substances Act **(720 ILCS 570/100, et seq.)**

27-8-2 POSSESSION OF CANNABIS. It shall be unlawful for any person knowingly to possess marijuana, hashish, and other substances which are identified as including any parts of the plant *Cannabis sativa*, whether growing or not, the seed thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of

chemical synthesis or by a combination of extraction or chemical synthesis; and shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of such plant which is incapable of germination.

27-8-3 POSSESSION OF CANNABIS; PENALTY.

(A) Any person possessing any substance containing cannabis resin up to the amount of **two and five-tenths (2.5) grams** shall, upon conviction, be assessed a fine not less than **Two Hundred Dollars (\$200.00)** and not more than **Seven Hundred Fifty Dollars (\$750.00)**.

(B) Any person possessing any substance containing cannabis resin in the amount of **two and five-tenths (2.5) grams** or more but less than **ten (10) grams** shall, upon conviction, be fined not less than **Three Hundred Dollars (\$300.00)** and not more than **Seven Hundred Fifty Dollars (\$750.00)**.

(C) Any person possessing any substance containing cannabis resin in the amount of **ten (10) grams** or more but less than **thirty (30) grams** shall, upon conviction, be fined not less than **Four Hundred Dollars (\$400.00)** and not more than **Seven Hundred Fifty Dollars (\$750.00)**.

(D) Any person possessing any substance containing cannabis resin in the amount of **thirty (30) grams** or more shall, upon conviction, be fined **Seven Hundred Fifty Dollars (\$750.00)**.

(E) Where any person has been convicted of any provision of this Section at any prior time, then there shall be added to the applicable minimum fine the amount of **One Hundred Dollars (\$100.00)** for each such prior conviction, but in no event shall the total fine exceed **Seven Hundred Fifty Dollars (\$750.00)**.

27-8-4 SALE OR DELIVERY; PENALTY; PUBLIC NUISANCE. Any person who keeps for sale, offers for sale, sells or delivers for any commercial consideration any item of Drug Paraphernalia commits an offense. For a first offense, a fine of **Three Hundred Dollars (\$300.00)** shall be imposed. For any subsequent offenses, a fine of **Seven Hundred Fifty Dollars (\$750.00)** shall be imposed.

Any store, place or premises from which or in which any item of Drug Paraphernalia is kept for sale, offered for sale, sold or delivered for any commercial consideration is declared to be a public nuisance.

27-8-5 POSSESSION OF DRUG PARAPHERNALIA; PENALTY.

(A) A person who knowingly possesses an item of Drug Paraphernalia with the intent to use it in ingesting, inhaling or otherwise introducing cannabis or a Controlled Substance into the human body, or in preparing cannabis or a Controlled Substance for that use, commits an offense.

(B) In determining intent under Subsection (A) of this Section, the trier of fact may take into consideration the proximity of the cannabis or Controlled Substances to Drug Paraphernalia or the presence of cannabis or a Controlled Substance on the Drug Paraphernalia.

(C) For a first offense, a fine of **Three Hundred Dollars (\$300.00)** shall be imposed. For any subsequent offenses, a fine of **Seven Hundred Fifty Dollars (\$750.00)** shall be imposed.

(Ord. No. 2011-19; 09-06-11)

ARTICLE IX

POSSESSION AND USE OF SYNTHETIC ALTERNATIVE DRUGS

27-9-1 DEFINITIONS. For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires different meaning:

"PRODUCT CONTAINING A SYNTHETIC ALTERNATIVE DRUG" shall mean 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.

"SYNTHETIC CANNABINOID" shall mean 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:

- JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole)
- JWH-015 ((2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone)
- JWH-018 (1-pentyl-3-(1-naphthoyl)indole)
- JWH-019 (1-hexyl-3-(naphthalene-1-oyl)indole)
- JWH-073 (naphthalene-1-yl-(1-butyloindol-3-yl)methanone)
- JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone)
- JWH-098 (4-methoxynaphthalen-1-yl-(1-pentyl-2-methylindol-3-yl)methanone)
- JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole)
- JWH-164 (7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone)
- JWH-200 (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone)
- JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-yl)ethanone)
- JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone)
- JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole)
- JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole)
- JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole)
- HU-210 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol)
- HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol)
- HU-308 ([[1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol)
- HU-331 ((3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione)
- CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]-5-(2-methyloctan-2-yl)phenol)
- CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol) and its homologues
- WIN 55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-nephtalenylmethanone)
- RCS-4 ((4-methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone)
- RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenyl)ethanone)

"SYNTHETIC STIMULANT" shall mean any compound that mimics the effects of any federally controlled Schedule I substance such as 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 isomers) containing substances which have a stimulant effect on the central nervous system, such as:

- 3-Fluoromethcathinone
- 4-Fluoromethcathinone (other name: flephedrone)
- 3,4-Methylenedioxy-methcathinone (other name: methylone, MDMC)
- 3,4-Methylenedioxy-pyrovalerone (other name: MDPV)
- 4-Methylmethcathinone (other names: mephedrone, 4-MMC)
- 4-Methoxymethcathinone (other names: medthedrone, bk-PMMA, PMMC)
- 4-Ethylmethcathinone (other name: 4-EMC)
- Ethcathinone
- Beta-keto-N-methylbenzodioxolylpropylamine (other names: butylone, bk-MBDB)
- Naphthylpyrovalerone (other names: naphyrone, NRG-1)
- N,N-dimethylcathinone (other name: metamfepromone)
- Alpha-pyrrolidinopropiophenone (other name: alpha-PPP)
- 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP)
- 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP)
- Alpha-pyrrolidinovalerophenone (other name: alpha-PVP)
- 6,7-dihydro-5H-indeno(5,6-d)-1,3-dioxal-6-amine (other name: MDAI)

Any compound that is structurally derived from 2-amino-1-phenyl-1-propanone by modification or substitution in any of the following ways:

- 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;
- at the 3-position with an alkyl substituent;
- at the nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups;
- or by inclusion of the nitrogen atom in a cyclic structure.

"SYNTHETIC PSYCHEDELIC/HALLUCINOGEN" shall mean 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 and/or brain, such as:

- 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);
- 2-(2,5-dimethoxy-4-methylphenyl)ethanamine (2C-D);
- 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C);
- 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I);
- 2-(4-(Ethylthio)-2,5-dimethoxyphenyl)ethanamine (2C-T-2);
- 2-(4-(Isopropylthio)-2,5-dimethoxyphenyl)ethanamine (2C-T-4);
- 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C-N);
- 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

27-9-2 **EXCEPTIONS.** This Article shall not apply to any person who may, under Federal or State law, possess, manufacture, distribute, dispense, or ingest the substance regulated by this Article. Furthermore, if a violation is a felony, it shall be prosecuted under appropriate Federal and/or State law and not this Article.

27-9-3 **SALE OR DELIVERY.** It shall be unlawful for any person to sell, offer for sale or deliver any product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen.

27-9-4 **POSSESSION.** It shall be unlawful for any person to knowingly possess a product containing a synthetic cannabinoid, stimulant or psychedelic/hallucinogen.

27-9-5 **USE.** It shall be unlawful for any person to be under the influence of a synthetic cannabinoid, stimulant or psychedelic/hallucinogen.

27-9-6 **PENALTIES.**
(A) Any person found to be in violation of **Section 27-9-3** shall be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and not more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereof.
(B) Any person found to be in violation of **Section 27-9-4** or **27-9-5** shall be subject to a fine of not less than **One Hundred Fifty Dollars (\$150.00)** and not more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereof.
(C) Each violation of this Article, and every day a violation continued to exist, shall constitute a new and separate violation.

(Ord. No. 2012-1; 01-17-12)

EXHIBIT A

2010	Funky Monkey XXXX	K3
8-Ball	G Four	K3 Blueberry
Aztec Gold	G Greenies Caramel Crunch	K3 Cosmic Blend
Aztec Midnight Wind Tezcatlipoca	Genie	K3 Dusk
Back Draft	Gold Spirit Spice	K3 Grape
Bad 2 the Bone	Green Monkey Chronic Salvia	K3 Heaven Improved
Banana Cream Nuke	Greenies Strawberry	K3 Heaven Legal
Bayou Blaster	Heaven Improved	K3 Kryptonite
Black Diamond	Heavenscent Suave	K3 Legal
Black Magic Salvia	Humboldt Gold	K3 Legal – Original (Black)
Black Mamba	Jamaican Gold	K3 Legal – Earth (silver)
Blueberry Hayze	K Royal	K3 Legal – Sea (silver)
Bombay Blue	K1 Orbit	K3 Legal – Sun (Black)
Buzz	K2	K3 Mango
C3	K2 (unknown variety)	K3 Original
C4 Herbal Incense	K2 Amazonian Shelter	K3 Original Improved
Caneff	K2 Blonde	K3 Strawberry
Cherry Bomb	K2 Blue	K3 Sun
Chill X	K2 Blueberry	K3 Sun Improved
Chronic Spice	K2 Citron	K3 Sun Legal
Cill Out	K2 Cloud 9	K3 XXX
Citrus	K2 Kryptonite	K4 Bubble Bubble
Colorado Chronic	K2 Latte	K4 Gold
DaBlock	K2 Mellon	K4 Purple Haze
Dark Night II	K2 Mint	K4 Silver
Demon	K2 Orisha Black Magic Max	K4 Summit
Diamond Spirit	K2 Orisha Max	K4 Summit Remix
Dragon Spice	K2 Orisha Regular	Kind Spice
D-Rail	K2 Orisha Super	K1 Gravity
Dream	K2 Orisha White Magic Super	K1 Orbit
Earthquake	K2 Peach	Legal Eagle
Eruption Spice	K2 Pina Colada	Legal Eagle Apple Pie
Euphoria	K2 Pineapple	Love Potion 69
EX_SES Platinum Strawberry	K2 Pineapple Express	Love Strawberry
exSES	K2 Pink	Magic Dragon Platinum
EX-SES Platinum	K2 Pink Panties	Magic Gold
EX-SES Platinum Blueberry	K2 Sex	Magic Silver
EX-SES Platinum Cherry	K2 Silver	Magic Spice
EX-SES Platinum Strawberry	K2 Solid Sex on the Mountain	Mega Bomb
EX-SES Platinum Vanilla	K2 Standard	Mid-Atlantic Exemplar
Fire Bird Ultimate Strength	K2 Strawberry	Mid-Atlantic Exemplar (K2 Summit)
Cinnamon	K2 Summit	Midnight Chill
Forest Humus	K2 Summit Coffee Wonk	MNGB Almond/Vanilla
Freedom	K2 Thai Dream	MNGB Peppermint
Fully Loaded	K2 Ultra	MNGB Pinata Colada
Funky Monkey	K2 Watermelon	

MNGB Spear Mint	Spice Silver	Voodoo Remix
MNGB Tropical Thunder	Spice Tropical Synergy	Who Dat
Moe Joe Fire	Spicey Regular XXX Blueberry	Who Dat Herbal Incense
Mojo	Spicey Regular XXX Strawberry	Wicked X
Mr. Smiley's	Spicey Ultra Strong XXX Strawberry	Winter Boost
MTN-787	Spicey Ultra Strong XXX Vanilla	Wood Stock
Mystery	Spicey XXX	XTREME Spice
Naughty Nights	Spicy Ultra Strong XXX Vanilla	Yucatan Fire
New Improved K3	Spicylicious	Zombie World
New Improved K3 Cosmic Blend	Spike 99	
New Improved K3 Dynamite	Spike 99 Ultra	
New Improved K3 Kryptonite	Spike 99 Ultra Blueberry	
New K3 Earth	Spike 99 Ultra Cherry	
New K3 Heaven	Spike 99 Ultra Strawberry	
New K3 Improved	Spike Diamond	
New K3 Sea Improved	Spike Gold	
New-Kron Bomb	Spike Maxx	
Nitro	Spike Silver	
Ocean Blue	Spike99	
P O W	Stinger	
p.e.p. pourri Love Strawberry	Summer Sky	
p.e.p. pourri Original Spearmint	Super Kush	
p.e.p. pourri Twisted Vanilla	Super Summit	
p.e.p. pourri X Blueberry	Swagger Grape	
Paradise	SYN Chill	
Pink Tiger	SYN Incense LemonLime	
Potpourri	SYN Incense Smooth	
Potpourri Gold	SYN Incense Spearmint	
Pulse	SYN Lemon Lime	
Rasta Citrus Spice	SYN Lemon Lime #2	
Rebel Spice	SYN Smooth	
Red Bird	SYN Spearmint	
S1.S Werve	SYN Spearmint #2	
Samurai Spirit	SYN Suave	
Sativah	SYN Swagg	
Scope Vanilla	SYN Vanilla	
Scope Wildberry	SYN Vanilla #2	
Sence	Texas Gold	
Shanti Spice	Time Warp	
Shanti Spice Bluberry	Tribal Warrior	
Silent Black	Ultra Cloud 10	
Skunk	Unknown cigarette	
Smoke	Utopia	
Smoke Plus	Utopia-Blue Berry	
Space	Voo Doo Remix (black package)	
Spice Artic Synergy	Voo Doo Remix (orange package)	
Spice Diamond	Voodoo Child	
Spice Gold	Voodoo Magic	

CHAPTER 28

PARKS

ARTICLE I – REGULATIONS

28-1-1 DESTRUCTION OF PARK PROPERTY. Within the municipal parks, no person except park personnel on official business shall:

- (A) cut, break, injure, destroy, take, or remove any tree, shrub, timber, plant, or natural object;
- (B) kill, cause to be killed, or pursue with intent to kill any bird or animal except in areas where the City has authorized hunting;
- (C) willfully mutilate, injure or destroy any buildings bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument, or other park property or appurtenances.

28-1-2 LITTERING - WATER POLLUTION.

(A) No person shall deposit any trash within the municipal parks except in proper receptacles where these are provided.

Where receptacles are not provided, all trash shall be carried away from the parks by the person responsible for its presence and shall be properly disposed of elsewhere.

(B) No person shall discharge or otherwise place or cause to be placed in the waters of any fountain, lake, stream, or other body of water in or adjacent to any park or in any tributary, stream, storm sewer or drain flowing into such waters any substance or thing, liquid or solid which will or may result in the pollution of the waters.

28-1-3 FIRES IN PARKS.

(A) No person shall light or use any unenclosed picnic fire within the municipal parks. Fires may be built only in fireplaces or on grills constructed for that purpose in designated areas.

(B) 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 City.

28-1-6 **SIGNS.** No person shall place within any municipal park or affix to any object therein any sign or device designated to advertise any business, profession, exhibition, event or thing unless he has obtained a permit to do so from the City.

28-1-7 **ANIMALS.** No person shall:
 (A) bring any dangerous animal into any municipal park; or
 (B) permit any dog to be in any park unless such dog is on a leash; or
 (C) ride or lead any horse in any municipal park or recreational area except upon paths or other ways expressly provided and posted for that purpose.

28-1-8 **MOTOR VEHICLES PROHIBITED.** No person other than municipal personnel on official business shall drive or park any motor vehicle, including snowmobiles, 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 a permit from the City:
 (A) sell or offer for sale any goods or services; or
 (B) conduct any amusement for gain or for which a charge is made.

28-1-10 **GROUP ACTIVITIES.** Whenever any group or organization desires to use municipal park facilities for a particular purpose such as picnics, parties, exhibitions or performances, a representative of the group shall first apply for and obtain a permit for such activity from the Mayor.

28-1-11 **APPLICATION FOR PERMIT.** Applications for all permits required by this Chapter shall be made in writing to the Mayor not less than **seven (7) days** before the proposed date of the activity for which the permit is sought. Each application shall include the following information:
 (A) A statement briefly describing the nature of the proposed activity;
 (B) name, address and telephone number of the person or organization wishing to conduct such activity;
 (C) the date when such activity is to be conducted;
 (D) the hour when such activity will start and terminate;

- (E) the park or portion thereof for which such permit is desired; and
- (F) an estimate of the anticipated attendance.

28-1-12 **DECISION ON PERMIT APPLICATION.** After due consideration of the information contained in the permit application, but not later than **seven (7) days** after the application has been filed, the Mayor shall determine whether the application is satisfactory. An application shall be deemed satisfactory if:

- (A) the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
- (B) the facilities desired have not been reserved for other use at the day and hour requested in the application;
- (C) the conduct of such activity will not substantially interrupt the safe and orderly movement of traffic;
- (D) the proper policing of such activity will not require the diversion of so great a number of police officers as to prevent normal protection to the remainder of this municipality;
- (E) the conduct of such activity is not reasonably likely to cause injury to persons or property or to incite violence, crime or disorderly conduct; and
- (F) such activity is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.

28-1-13 **ISSUANCE OR DENIAL OF PERMIT.**

- (A) Notification by regular mail or by telephone shall be made promptly by the Mayor to every permit applicant of the decision on his application.
- (B) If such decision is favorable, the Mayor shall issue the permit. As a condition of the issuance of any permit, the Mayor may require that an indemnity bond be obtained if, in their opinion, such bond is necessary to protect this municipality from liability or to protect municipal property from damage.
- (C) The Mayor shall inform each applicant who has been denied a permit regarding the reasons for the denial and the procedure for appeals.

28-1-14 **HOURS.** The City Council shall establish the hours of operation of the municipal parks. No one shall be in the park without the Mayor's permission after the established hours.

CHAPTER 30

PUBLIC SAFETY

ARTICLE I – POLICE DEPARTMENT

30-1-1 **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 captains, sergeants, and patrolmen as may be provided from time to time by the City Council.

30-1-2 **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.

30-1-3 **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.

30-1-4 **APPOINTMENT OF PATROLMEN.** A sufficient number of patrolmen shall be appointed by the Mayor, by and with the advice and consent of the City Council to serve for **one (1) year** or until his successor is appointed and qualified; and each patrolman shall take the oath or affirmation of office required by law before entering into the performance of duties of a patrolman. A police officer may be appointed to office by the Mayor and City Council if he meets the necessary qualifications notwithstanding the fact that the policeman is not a resident of the City when appointed or when he is to serve as such an official.

30-1-5 **SALARY.** The police department shall receive such compensation as may be provided by City ordinance or resolution of the City Council.

30-1-6 **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.

30-1-7 **SPECIAL POLICEMEN.** The Mayor may, on special occasions when, in his judgment for public peace and order of the City shall require, appoint and commission any number of special policemen as may be necessary and shall fix in order of their appointment, the time during which each shall serve all such special policemen, during such time, shall possess the powers and exercise the duties of regular police patrolmen; provided that their appointment, if for more than **ten (10) days** shall be subject to the consent of the City Council in the manner that other appointments to office by the Mayor are subject. Auxiliary policemen shall not carry firearms, except with the permission of the Chief of Police and then only when in uniform and in the performance of their duties.

30-1-8 **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.

30-1-9 **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.

30-1-10 **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.

30-1-11 **FAILURE TO PERFORM.** Any member of the Police Department who shall neglect or refuse to perform any duty required of him by this Code or the rules and regulations of the Department, or who shall be, in the discharge of his official duties, guilty of any fraud, favoritism, extortion, oppressions or willful wrong or injustice, shall be subject to removal from office.

30-1-12 **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.

30-1-13 **WITNESS FEES.** Any member of the Police Department shall appear as witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the City is a party; and fees paid for such services shall be turned over to the Chief of Police who shall deposit the same with the City Treasurer.

30-1-14 **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.

30-1-15 **TRAINING.** All 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 for firearms training. Such courses of training shall not be less than **four hundred (400) hours** in duration. Upon completion of the course of training, the applicant shall file with the Mayor a certificate attesting to the completion of the course.

30-1-16 **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the City.

30-1-17 **PART-TIME POLICE OFFICERS.**

(A) **Employment.** The City may from time to time employ part-time police officers as the City Council deems necessary, which part-time police officers shall be restricted to no more than **one thousand five hundred sixty (1,560) hours** work within a calendar year.

(B) **Duties.** A part-time police officer shall have all the responsibilities as determined by the Chief and as set forth in this Code. Part-time officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall not be used as permanent replacements for permanent full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (**50 ILCS 705/1 et seq.**) and the rules and requirements of the Illinois Law Enforcement Training Standards Board.

(C) **Hiring Standards.** Any person employed as a part-time officer must meet the following standards and/or qualifications:

- (1) Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties; and,

- (2) Be at least **twenty-one (21) years** of age; and,
- (3) Possess a high school diploma or GED certificate; and,
- (4) Possess a valid State of Illinois driver's license; and,
- (5) Possess no prior felony convictions; and,
- (6) Any individual who has served in the U.S. military must have been honorably discharged; and,
- (7) Submit to fingerprinting for Illinois State Police and Federal Bureau of Investigation.

(D) **Discipline.** Part-time officers shall be under the jurisdiction of the Chief of Police. Part-time officers serve at the discretion of the City Council, shall not have any property rights in said employment, and may be removed by the City Council at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Police Chief.

(Ord. No. 2012-5; 04-03-12)

(See 65 ILCS Sec. 5/11-1-2)

ARTICLE II

EMERGENCY SERVICES AND DISASTER AGENCY
(ESDA)**30-2-1** **POLICY AND PROCEDURES.**

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal emergency services and disaster agency;
- (2) To confer upon the Mayor the extraordinary power and authority set forth in **Section 30-2-5(E)** of this **Article I (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 services and disaster operations.

(B) It is further declared to be the purpose of this Article and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-2-2 **LIMITATIONS.** Nothing in this Article shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Article 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 Article.

30-2-3 **DEFINITIONS.** As used in this Article, 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 Article.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-2-4 EMERGENCY SERVICES AND DISASTER AGENCY.

(A) There is hereby created an emergency services and disaster agency and a coordinator of the emergency services and disaster 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, pursuant to the provisions of **Section 1-2-46** of the City Code. The coordinator shall serve at the pleasure of the Mayor, and he may be removed by the Mayor pursuant to the provisions of **Section 1-2-47** of the City Code.

(B) The Emergency Services and Disaster 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 Article.

(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 services and disaster operations of this municipality. He shall coordinate the activities of all organizations for emergency services and disaster 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 Article.

(D) The Municipal Emergency Services and Disaster 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 services and disaster agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Municipal Emergency Services and Disaster 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 Article 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 Article.

30-2-5 EMERGENCY SERVICES AND DISASTER POWERS OF THE MAYOR.

(A) The Mayor shall have the general direction and control of the emergency services and disaster agency, and shall be responsible for the carrying out of the provisions of this Article.

(B) In performing his duties under this Article, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency services and disaster operations defined in this Article.

(C) In performing his duties under this Article, 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 Article 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 services and disaster 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 services and disaster agency as its office.

(E) **Declaration of Emergency by Mayor.** Whenever the Mayor determines after an investigation that a disaster exists as defined in **Section 30-2-3(B)** of this Article, the Mayor may declare that a state of emergency exists. During such state of emergency, the Mayor may, by executive order, exercise the extraordinary powers and authority of the corporate authorities of the City as may be reasonably necessary to respond to such emergency. The Mayor shall not exercise such extraordinary power and authority except after signing under oath a statement finding that a state of emergency exists, setting forth facts to substantiate that a state of emergency exists, 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. **(65 ILCS 5/11-1-6)**

30-2-6 FINANCING.

(A) It is the intent of the City Council and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the City Council's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the City Council for the purpose of enacting ordinances as the City Council may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the City Council is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the City Council can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

30-2-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or City Council. If declared by the Mayor, it shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the City Council. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any

way prevent, hinder or delay necessary action in coping with the emergency, as authorized by “**The Illinois Emergency Management Agency Act**”, provided that, if the City Council meets at such time, he shall act subject to the directions and restrictions imposed by that body.

30-2-8 TESTING OF DISASTER WARNING DEVICES. The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

30-2-9 MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS. The coordinator for emergency services and disaster 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 30-2-3** of this Article, it shall be the duty of each local and department for emergency services and disaster operations to render assistance in accordance with the provisions of such mutual aid arrangements.

30-2-10 COMMUNICATIONS. The local Emergency Services and Disaster Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

30-2-11 IMMUNITY. Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency services and disaster operations or disaster activities, while complying with or attempting to comply with this Article or any rule or regulations promulgated pursuant to this Article is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This Section does not, however, affect the right of any person to receive

benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

30-2-12 **PROFESSIONS, TRADES AND OCCUPATIONS.** If such disaster as is described in **Section 30-2-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the coordinator of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality.

30-2-13 **AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.** Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its City Council, may accept such offer and upon such acceptance the Mayor or the City Council may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

30-2-14 **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 Article in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-2-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Article 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 Services and Disaster Agency established pursuant to this Article, 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 Services and Disaster Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

30-2-15 UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL. In carrying out the provisions of this Article, the Mayor and the coordinator of the emergency services and disaster 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 services and disaster agency.

30-2-16 SEVERABILITY. If any provision of this Article 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 Article are hereby declared to be severable.

30-2-17 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 Article, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury

to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

30-2-18 **SUCCESSION.** In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Article, and until the office is filled in the manner prescribed by law, the coordinator of the emergency services and disaster agency shall succeed to the duties and responsibilities of the Mayor as set forth in this Article.

30-2-19 **COMPENSATION.** The City Council, by its annual appropriations ordinance, may provide for the payment of the salary of the coordinator and such other office staff and personnel as may be expressly provided for in the ordinance. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency.

30-2-20 **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 Services and Disaster Agency, and which oath shall be substantially as follows:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the City, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

30-2-21 **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 30-2-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-2-22 **PENALTY.** Any person convicted of violating this Article or any order thereunder shall be punished by a fine of not exceeding **Seven Hundred Fifty Dollars (\$750.00)**.

(See 20 ILCS Sec. 3305/1 et seq.)

ARTICLE III – FIREWORKS CODE

30-3-1 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, aerals, 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. However, the term “fireworks” shall not include snake or glow worm pellets, smoke devices, trick noisemakers known as “party poppers,” “booby traps,” “snappers,” “trick matches,” “cigarette loads” and “auto burglar alarms,” sparklers, toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing **twenty-five hundredths (.25)** grains or less of explosive compound are used, providing the are so constructed that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper or plastic caps which contain less than **twenty hundredths (.20)** grains of explosive mixture, flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination, the sale and use of which shall be permitted at all times.

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

(A) Fireworks commonly known as 1.3G fireworks, skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and

(B) Fireworks not classified as common fireworks.

30-3-2 **SALE OF FIREWORKS UNLAWFUL.** It is unlawful for any person to sell any fireworks within the City, provided that this prohibition shall not apply to duly authorized public displays.

30-3-3 **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.

30-3-4 **PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS.** It is unlawful for any person to 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.

30-3-5 **PERMIT FEES.** 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.

30-3-6 **ISSUANCE – NONTRANSFERABLE - VOIDING.** 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 a violation of this Article and shall void the permit granted in addition to all other sanctions provided in this Article or in this Code.

30-3-7 **APPLICATION FOR PUBLIC DISPLAY PERMIT.** Applications for a permit to conduct a public display of fireworks shall be made to the City Clerk at least **fifteen (15) 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 30-3-8** of this Article.

30-3-8 **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 or display fireworks. All such individuals shall have a license under the provisions of the Pyrotechnic Distributor and Operator Licensing Act (**225 ILCS 227**) and shall comply with the same.

(B) A permit must be obtained from the City and approved by the Fire Chief of the fire department providing fire protection or his/her 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 proof of liability insurance in a sum not less than **One Million Dollars (\$1,000,000.00)** with an insurance company authorized to do business in Illinois, including the name and address of the insurance company providing the required insurance.

(C) A drawing shall be submitted with the application to the City Clerk 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. The Fire Chief of the fire department providing fire protection for the display or his/her designee must inspect the display site and the plans and ensure that the display can be performed in full compliance with NFPA standards adopted and amended by the OSFM Rules, Part 235, and all other laws and regulations governing the same, and if satisfied, he or she must sign the display permit.

(D) When, in the opinion of the Fire Chief of the fire department providing fire protection for the display or his/her designee, 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 and/or such fire department for all costs, if any, to have the firefighters present 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 of the fire department providing fire protection for the display or his/her designee deems such revocation is necessary due to noncompliance or 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 Police Chief or designee in cooperation with the Fire Chief of the fire department providing fire protection display or his/her designee and maintained in an approved manner.

30-3-9 **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, except during such limited times and in such designated places as may be specifically authorized from time to time by the City Council. Nothing in this Article shall be deemed to limit the authority of the City Council to allow event displays of special fireworks under a permit issued in accordance with the provisions of this Article.

30-3-10 **STATUS OF STATE LAW.** This Article is intended to implement applicable State laws, to wit, **225 ILCS 227 and 425 ILCS 35**, and shall be construed in connection with those laws and any and all rules or regulations issued pursuant to those laws.

30-3-11 **ENFORCEMENT.** The Police Chief or his/her designee, is authorized to enforce all provisions of this Article and, in addition to criminal sanctions or civil remedies, may revoke any permit issued pursuant to this Article upon any failure or refusal of the permittee to comply with the lawful orders and directives of the Police Chief or designee or the Fire Chief of the fire department providing fire protection for the display or his/her designee, or to comply with any provisions of this Article.

30-3-12 **RECKLESS DISCHARGE 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 person.

(Ord. No. 2006-4; 06-06-06)

CHAPTER 33

STREETS 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, and the employees. The City Engineer shall serve as ex-officio officer.

33-1-2 **COMMITTEE ON STREETS.** The City Council Standing Committee on Streets shall exercise a general supervision over the affairs of the Street Department. It shall ascertain the needs and conditions thereof and shall, from time to time, report the same to the Mayor and City Council.

ARTICLE II - GENERAL REGULATIONS

33-2-1 **UNDERMINING.** No person shall undermine in any manner, any street or any other ground or real estate situated in the City or belonging to any private person.

33-2-2 **OPEN DOORS.** No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the City for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

33-2-3 **REPAIRING SIDEWALKS, ETC.** Whenever any sidewalk, pavement, or cellar door on the same becomes worn out or out of repair, or is torn up or broken and uneven, it shall be the duty of the Street Superintendent to immediately report such fact to the Mayor or Street and Alley Committee, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay.

33-2-4 **STAIRWAY - RAILING.** Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

33-2-5 **CLOSING STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

33-2-6 **SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the City, unless he has written approval of the City Council. **(See 65 ILCS Sec. 5/11-80-17)**

33-2-7 **VEHICLES ON SIDEWALKS.** No person shall operate any vehicle or skateboard or similar device, on or over any sidewalk, except when crossing the same to go into a yard or parking lot.

33-2-8 **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.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four feet (4')**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes.**

33-2-9 OBSTRUCTING STREET.

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the City, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(See 65 ILCS Sec. 5/11-80-3)**

33-2-10 RAINWATER DRAINS. It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the City Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Superintendent and no such permit shall be issued unless he shall have found that the City Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm water drain or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the City.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the City and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement.

33-2-11 BUILDING MATERIALS IN STREET. The Street Superintendent may move any obstruction on any street or sidewalk of the City, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(See 65 ILCS Sec. 5/11-80-3)**

33-2-12 **MERCHANDISE ON PUBLIC STREET.** It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the City Council. **(See 65 ILCS Sec. 5/11-80-3)**

33-2-13 **ENCROACHMENTS.** It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-14 **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.

33-2-15 **USE ALLEYS PROHIBITED.** The use of the public alleys in the City with the exception of the public alleys in Blocks "N", "Q", "R" and "V" of the original Town, now City of Elmwood, by commercial garbage collection trucks, for any purpose, is prohibited at all times.

Anyone driving a vehicle in violation of this Section shall be guilty of a petty offense and shall be fined not less than **Fifty Dollars (\$50.00)** nor more than **Five Hundred Dollars (\$500.00)** for each such offense. **(Ord. No. 91-3; 07-02-91)**

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 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.

33-3-3 INJURY. It shall be unlawful to injure any tree or shrub planted in such public place.

33-3-4 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.

33-3-5 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.

33-3-6 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.

33-3-7 **GAS PIPES.** Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

ARTICLE IV - SKATEBOARDS

33-4-1 **USE ON PUBLIC STREETS, ETC. PROHIBITED.** It shall be unlawful for any person to use, ride or skate upon or scoot or push any skateboard or similar device on any public street, public alley or public sidewalk in the City or in or upon any public park in the City or in or upon any other property owned, leased, operated or maintained by the City.

33-4-2 **PROHIBITED ON CERTAIN PRIVATE PROPERTY.** It shall be unlawful for any person to use, ride or skate upon, scoot or push, any skateboard or similar device on any parking area or sidewalk adjacent thereto of any school, church, apartment complex or other business or entity within the City, which has been posted by an appropriate Notice of such prohibition and has by contract, empowered the City to regulate traffic and parking in said areas.

33-4-3 **PENALTY.**
(A) Any person who violates or aids or abets in the violation of this Article is guilty of a petty offense; and,
(B) shall be fined not less than **Twenty-Five Dollars (\$25.00)** nor more than **One Hundred Dollars (\$100.00)**; and,
(C) the Law Enforcement Officer shall have authority to impound and confiscate the skateboard or other device which was used during such offense.

(This Article Ord. No. 90-5; 09-18-90)

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** No sidewalk shall be built above or below the established grade of the City and in all cases where no grade is established, any person building a sidewalk shall build the same according to the instructions of the Street Superintendent and the City Council.

(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.

(C) **Cost to Owner.** If the funds are available and the City Council approves the request, the City shall pay the cost of the concrete and the property owner shall lay the concrete according to City specifications.

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

33-5-2 CURBS AND GUTTERS.

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

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

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

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

33-5-3 STORM SEWERS.

(A) **Description of Storm Water Sewers.** Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders, or storm waters, rain waters, or other waters other than sanitary sewage.

(B) **Supervision.** The Superintendent of the Water and Sewer Departments shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.

(C) **Permits.** Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Superintendent or his designated representative.

(D) **Requirements: Use of Storm Water Sewers.** Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the City. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system.

(See 65 ILCS Sec. 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

33-6-2 **PERMIT FOR CULVERT.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the City Clerk.

33-6-3 **APPLICATION FOR PERMIT.** Any person desiring a permit to install or replace any culvert shall file an application therefor with the City Clerk upon a form to be provided for that purpose. The application and the permit issued pursuant thereto shall be on the same form which shall be substantially as outlined in **Appendix 'B'** attached hereto.

33-6-4 **TERMINATION OF PERMIT.** All such permits shall terminate upon the expiration of **one (1) year** following the date of issue.

33-6-5 **TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe (**Class IV**), or of such other material as determined by the Street Department, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Street Superintendent. The person desiring the culvert shall purchase a culvert as provided herein and shall have it delivered on the site. The City shall install the culvert.

33-6-6 **COST OF INSTALLATION.** Any person installing or replacing a culvert shall, at his own expense, construct and install drainage inlet boxes in such form and manner as the Street Superintendent determines necessary depending on the conditions existing.

33-6-7 **BACKFILL COST.** Any person installing or replacing a culvert shall, at his own expense, provide and place such backfill material as the Street Superintendent determines necessary to complete the project.

33-6-8 **REPLACEMENT COST.** The expense of replacing any culvert shall be borne by the person making application for the permit to install the same.

(See 65 ILCS Sec. 5/11-80-7)

ARTICLE VII - DRIVEWAYS

33-7-1 PERMITS REQUIRED. No person shall construct a driveway for vehicles or animals across any sidewalk in the City without having first obtained a permit therefor.

Applications for such permits shall be made to the 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 FEE. The fee for all such construction shall be **One Dollar (\$1.00)**.

33-7-3 GRADE SURFACE. No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction in the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk. It shall be unlawful to have the surface finish of any driveway where the same crosses the sidewalk constructed of such materials as to render it slippery and hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level.

33-7-4 SPECIFICATIONS. Driveways across sidewalks and driveway approaches within the street right-of-way with a curb shall be constructed of **six (6) inch** thick concrete. All other driveways shall be constructed in compliance with the specifications required by the Street Superintendent and the Alderman or Alderwoman Chair of the Streets Committee. **(Ord. No. 2018-12; 09-18-18)**

33-7-5 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 **One Hundred Dollars (\$100.00)** is required to be posted with the City Clerk.

33-7-6 REPAIR. It shall be the duty of the person maintaining the driveway to keep the same in good repair where it cross the sidewalk and free from obstruction and openings.

(See 65 ILCS Sec. 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 each and every day of the week, Monday through Saturday, excluding National Holidays. However, Sundays and National Holidays shall be considered Business Days as defined herein if a business in the Business District is open to conduct business on said Sunday or National Holiday.

"BUSINESS DISTRICT" shall include all those areas zoned for business, commercial and industrial purposes in the Zoning Code and accompanying map as amended or other applicable regulations, including all of the business area located in the 100 blocks of North and South Magnolia Street and the 100 blocks of East and West Main Street.

"BUSINESS HOURS" are the hours between **7:00 A.M.** and **5:00 P.M.** on any Business Day as defined herein.

"NON-BUSINESS DISTRICT" shall include all those areas zoned for residential or agricultural purposes in the Zoning Code and accompanying map as amended or other applicable regulations.

"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, and which includes the ramps, stairways and crosswalks located therein.

"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 IN BUSINESS DISTRICTS AND NON-BUSINESS DISTRICTS.

(A) **Business Districts.** On each Business Day during Business Hours, every person, entity or business in charge or control of any building or lot of land within a Business District of 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, any snow in excess of **one (1) inch** and any ice from a path from so much of a sidewalk as is in front of or abuts on said building or lot of land. The path required to be cleared in the Business District shall be **four (4) feet** in width, or the whole width of the sidewalk, whichever is smaller. Snow and ice shall be so removed from sidewalks within the Business District of the City no less than **twenty-four (24) hours** after cessation of any fall of snow, sleet or freezing rain.

(B) **Non-Business Districts.** Every private person or entity in charge or control of any building or lot of land within a Non-Business District of 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, any snow in excess of **one (1) inch** and any ice from a path from so much of a sidewalk as is in front or abuts on said building or lot of land. The path required to be cleared in the Non-Business District shall be **four (4) feet** in width, or the whole width of the sidewalk, whichever is smaller. Snow and ice shall be so removed from sidewalks within the City by **twenty-four (24) hours** after cessation of any fall of snow, sleet or freezing rain.

(C) However, in the event snow and ice on a sidewalk in a Business District (except for that portion of the Business District located in the 100 blocks of North and South Magnolia Street and the 100 blocks of East and West Main Street) or a Non-Business District has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or business charged with its removal shall, within the time mentioned in subsection (A) or (B) above, cause enough sand, cinders or other abrasive to be put on the sidewalk to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause a path **four (4) feet** in width, or the whole width of the sidewalk, whichever is smaller, to be cleared on said sidewalk. In the portion of the Business District located in the 100 blocks of North and South Magnolia Street and the 100 blocks of East and West Main Street, the same applies, except that the person or business charged with removal shall only put magnesium chloride on the sidewalk to make travel thereon reasonably safe.

(D) In the portion of the Business District located in the 100 blocks of North and South Magnolia Street and the 100 blocks of East and West Main Street, the City shall remove and clear away, or cause to be removed and cleared away, snow and ice from the sidewalks in said portion of the Business District on any day that is not a Business Day and on Business Days during Non-Business Hours, unless the City provides notice to the person, entity or business that it is unable to do so and in which case the said person, entity or business shall be responsible for the removal of snow and ice from the sidewalks. The City shall also remove and clear away all snow and ice windrowed on curbs or adjacent to planter boxes as a result of cleaning the sidewalks during Business Hours or otherwise.

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, stairway, ramp, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs or adjacent to planter boxes incident to the cleaning of sidewalks. **(See 65 ILCS Sec. 5/11-80-13)**

33-8-4 **MAYOR'S AUTHORITY.** The Mayor is hereby authorized on behalf of the City to cause sidewalks to be cleared upon the request of the person or entity charged with snow and ice removal. Any person or entity whose sidewalk is cleared pursuant to this Section shall reimburse the City for the costs of such clearing.

(Ord. No. 2014-20; 10-07-14)

ARTICLE IX – STREET NUMBERING

33-9-1 ADMINISTRATION. Street naming and numbering shall be under the jurisdiction of the Street Committee. The City Council shall have prepared and shall maintain a detailed map of the City streets and roads with their names and numbers and changes thereto, which map shall be open to inspection by the public at the office of the City Clerk.

33-9-2 BASE LINES. There is hereby established a uniform system of numbering all houses and buildings now constructed or hereafter constructed, fronting on all streets, avenues, alleys, roads, boulevards, public ways and highways in the City. In this system, the base line for numbering east and west streets shall be Magnolia Street. The base line for streets running north and south shall be Main Street.

33-9-3 NUMBERING SYSTEM. Each block shall begin with the number **One Hundred One (101)** or **One Hundred Two (102)** or multiples thereof with odd numbers on the north and east sides of a street and even numbers on the south and west sides of a street. Diagonal streets shall be designated north/south or east/west according to their predominant line of direction and if exactly **forty-five (45) degrees**, shall have a north/south prefix. Diagonal streets shall be numbered to coincide with block numbers established for the adjoining east/west, north/south blocks.

33-9-4 NEW HOUSING AREAS AND SUBDIVISION. It shall be the duty of any person laying out a new housing area or subdivision to prepare and submit a house numbering grid which satisfies the requirements outlined herein with regard to both street names and numbers to the street.

33-9-5 HOUSE NUMBERS. When properly notified in writing, it shall be the duty of the owners and occupants of any house or building in the previously specified area to have placed thereon in a location readily visible from the street or road and in numbers at least **two and one-half (2 ½) inches** high, the assigned number for that house or building. Buildings which already carry numbers shall retain both the old and newly assigned numbers for **ninety (90) days** after notification; thereafter, the incorrect number shall be removed.

33-9-6 **NAMING AND RENAMING STREETS AND ROADS.** Streets and roads shall generally retain their historical and familiar designations. Where necessary, new streets and roads shall be assigned names by the Street Committee. In those instances where duplicate names have been assigned to a street or road, or identical or nearly identical names have been given to different streets or roads, the City Council shall have the right to change the name. Changes may also be made by petition of the majority of residents living on a given street or road addressed to the City Council and the City Council shall allow or deny the petition; provided that any objecting property owner on such street or road to be named or renamed may request a public hearing thereon. In such case the hearing shall be held after **fifteen (15) days'** notice of the time and place of said hearing before the Street Committee; and such Committee after hearing, shall report its recommendation to the City Council for final action.

(Ord. No. 2011-2; 01-18-11)

ARTICLE X - CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY**33-10-1 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 and sidewalks;
- (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 utilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees, from the installation of facilities;
- (5) protect against increased stormwater runoff due to structures and materials that increase impermeable surfaces;
- (6) preserve the character of the neighborhoods in which facilities are installed;
- (7) prevent visual blight from the proliferation of facilities in the rights-of-way; and,
- (8) ensure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(C) **Facilities, 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 within the City. 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.

(D) **Effect of Franchises, Licenses, or Similar Agreements.** The effect of franchises, license or similar agreements on the following:

- (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.

(E) **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.

33-10-2 DEFINITIONS. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

"AASHTO" means the American Association of State Highway and Transportation Officials.

"ANSI" means the American National Standards Institute.

"Applicant" means a person applying for a permit under this Article.

"ASTM" means the American Society for Testing Materials.

"Backfill" means the methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring" means to excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable Operator" means as defined in 47 U.S.C. § 522(5).

"Cable Service" means as defined in 47 U.S.C. § 522(6).

"Cable System" means as defined in 47 U.S.C. § 522(7).

"Carrier Pipe" means the pipe enclosing the liquid, gas or slurry to be transported.

"Casing" means a structural protective enclosure for transmittal devices such as carrier pipes, electrical conductors, and fiber optic devices.

"Clear Zone" means 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" means protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Conductor" means wire carrying electric current.

"Conduit" means a casing or encasement for wires or cables.

"Construction" or "Construct" means the installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

"Cover" means the depth of earth or backfill over buried utility pipe or conductor.

"Crossing Facility" means a facility that crosses one or more right-of-way lines of a right-of-way.

"Disrupt the Right-of-Way" means 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.

(A) Such work may include, without limitation, the following:

- (1) excavating or other cutting;
- (2) placement (whether temporary or permanent) of materials, equipment, devices, or structures;
- (3) damage to vegetation; and,
- (4) compaction or loosening of the soil.

(B) Such work shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a street.

"Emergency" means 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" means provision of a protective casing.

"Engineer" means the City Engineer, his designee or such other person designated by the City.

"Equipment" means materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation" or "Excavate" means the making of a hole or cavity by removing material, or laying bare by digging. Excavation shall not include a designed opening in a right-of-way designed to permit frequent openings without injury or damage to the right-of-way.

"Extra Heavy Pipe" means pipe meeting the ASTM standards designation for the term "extra heavy pipe".

"Facility" means 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. The term "facility" shall not include any facility owned or operated by the City.

"Freestanding Facility" means a facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Hazardous Materials" means any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Engineer 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" means the Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

"Holder" means a person 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.

"ICC" means the Illinois Commerce Commission.

"IDOT" means the Illinois Department of Transportation.

"Jacking" means pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting" means pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use" means the use of pole lines, trenches or other facilities by two or more utilities.

"JULIE" means the Joint Utility Locating Information for Excavators utility notification program.

"Major Intersection" means the intersection of two or more major arterial streets.

"Occupancy" means the presence of facilities on, over or under right-of-way.

"Parallel Facility" means a facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Pavement Cut" means the removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee" means the entity to which a permit has been issued pursuant to **Sections 33-10-6** and **33-10-7**.

"Petroleum Products Pipelines" means pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal slurry.

"Practicable" means that which is performable, feasible or possible, rather than that which is simply convenient.

"Pressure" means the internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

"Prompt" means 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" means a legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Public Utility" means a utility that constitutes or is part of a local government unit in Peoria County, Illinois.

"Restoration" means the repair of a right-of-way disrupted by the construction of a facility.

"Right-of-Way" or "Rights-of-Way" means any street or sidewalk 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. The term "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" means that part of the street that includes the pavement and shoulders.

"Sale of Telecommunications at Retail" means 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" means that amount of security required pursuant to **Section 33-10-12**.

"Shoulder" means 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" means a decision consistent with generally accepted engineering principles, practices and experience.

"Telecommunications".

(A) The term "telecommunications" shall include, 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. The term "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.

- (B) The term "telecommunications" shall not include the following:
- (1) 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.
 - (2) The 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.
 - (3) The provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. § 521 et seq.), 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 et seq.), as now or hereafter amended.

"Telecommunications Provider" means any person who 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 telecommunications at retail as defined in this Section.

"Trench" means a relatively narrow open excavation for the installation of an underground facility.

"Utility" means any person owning or operating a facility as defined in this Section.

"Vent" means a pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Video Service" means the term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

"Waterlines" means pipelines carrying raw or potable water.

"Wet Boring" means boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Admin. Code § 530.30.

33-10-3 PENALTIES. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Article shall be subject to a fine between **Fifty Dollars (\$50.00)** and **Five Hundred Dollars (\$500.00)** for each offense. Each day that a violation exists shall constitute a separate offense.

33-10-4 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.

33-10-5 ANNUAL REGISTRATION REQUIRED.

(A) Every utility that owns or controls a facility in a right-of-way shall register on **January 1** of each year with the Engineer by providing the City Clerk's office with 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 24-hour telephone number for each such person, and evidence of insurance as required in **Section 33-10-10**, in the form of a certificate of insurance.

(B) All utilities required to register under this Section shall provide adequate security ("Annual Registration Security") to guarantee the utility satisfies its maintenance and emergency repair responsibilities under this Article. The utility may elect to provide the Annual Registration Security in cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. The City shall determine the dollar amount for the Annual Registration Security. Any surety bond or letter of credit provided pursuant to this Section shall, at a minimum provide:

- (1) The City shall receive written notice prior to cancellation of the bond or letter of credit;
- (2) The City shall be able to collect any amount covered by the bond or letter of credit without receiving the utility's consent; and,
- (3) The City shall receive payment at a location convenient to the City.

(C) Notwithstanding anything herein to the contrary, public utilities are exempt from the annual registration security requirement.

33-10-6 PERMIT REQUIREMENTS.

(A) **When Required.** Except otherwise provided in this Article, no person shall construct any facility without first filing an application with the City Clerk's office, and obtaining a permit from the City that:

- (1) changes the location of the facility;
- (2) adds a new facility;
- (3) disrupts the right-of-way; or,
- (4) materially increases the amount of area or space occupied by the facility.

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) **Form; Filing.** All applications for permits pursuant to this Section shall be filed in the City Clerk's office, 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) **Application.** 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 numbers, 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 33-10-10**;
- (8) Evidence of posting of the Security Fund as required in **Section 33-10-12**;
- (9) Any request for a variance pursuant to **Section 33-10-23** from one or more provisions of this Article; and,
- (10) Such additional information as may be reasonably required by the City.

(D) **Supplemental 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, Article 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, Article of Water Pollution Control and any other local or State agency with jurisdiction, have been satisfied; or
- (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(E) **Applicant's Duty to Update Information.** Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within **thirty (30) days** after the change necessitating the amendment.

(F) **Fees.** Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a fee. The amount of the fee shall be established from time to time by the City Council. No application fee is required to be paid by any electricity utility that is paying the City electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

33-10-7 ACTION ON APPLICATIONS.

(A) **Review.** Completed permit applications, containing all required documentation, shall be examined by the Engineer within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, and regulations, the Engineer shall reject such application, in writing, stating the reasons therefor. If the Engineer is satisfied that the proposed work conforms to the requirements of this Article and applicable ordinances, codes, laws, rules, and regulations, the Engineer 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 Engineer, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

(B) **Additional Review of Applications of Telecommunications Retailers.** Telecommunications retailers' applications have the following additional review procedure by the City:

- (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 Engineer shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.

- (2) A telecommunication retailer may commence work without obtaining a permit under this Article if the Engineer 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.
- (3) Upon the provision of such specification by the City, where a permit is required for work pursuant to **Section 33-10-6** 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 Review 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.

33-10-8 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 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.

33-10-9 **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 33-10-23**. 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.

33-10-10 **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) of this Section:

- (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 Mayor 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) of this Section, 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. 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.

33-10-11 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.

33-10-12 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; provided however, that if the amount of the Security Fund is **Five Thousand Dollars (\$5,000.00)** or less, then the Security Fund shall be in the form of cash or a cashier's check payable 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 at which it can be drawn.

(C) **Amount.** The City shall determine the dollar amount of the Security Fund which shall be an amount sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as existed prior to the construction under the permit, and may include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the City 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 a **fourteen (14) day** 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 this Section, 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.

(I) Public utilities are exempt from the requirements of this Section.

33-10-13 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) The permittee's physical presence or the permittee's facilities present a direct or imminent threat to the public health, safety, or welfare; or
- (4) The permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice.** 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.

(C) **Permittee Alternatives Upon Receipt of Notice.** 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 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.

33-10-14 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 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.

33-10-15 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;
- (7) Flagger's Handbook; and,
- (8) Work Site Protection Manual for Daylight Maintenance Operations.

(B) **Engineer Determination.** If a discrepancy exists between or among differing principles and standards required by this Article, the Engineer shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Engineer shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

33-10-16 **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.

(B) **Warning Signs, Protective Devices and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting 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 33-10-22**, 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.

33-10-17 **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 Facilities.** No facility shall be placed in any location if the Engineer determines that the proposed location will require the relocation or displacement of another facility or will otherwise interfere with the operation or maintenance of another facility.

(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 facility shall be placed in any location that interferes with the usual travel on such right-of-way.
- (4) **No Limitations on Visibility.** No facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
- (5) **Size of Facilities.** A facility shall be installed by using the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility's owner, regardless of location, for the particular application.

(B)

Parallel Facilities Located Within Streets.

- (1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a street 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 street; 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 street 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 street 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 Streets.

- (1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of City streets 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) **Crossings of 90 Degrees 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 street 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 street 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 street 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 street. 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 a particular right-of-way.

(E)

Freestanding Facilities. The City may:

- (1) Restrict the location and size of any freestanding facility located within a right-of-way.
- (2) Require any freestanding facility located within a right-of-way to be screened from view.

(F)

if:

Aboveground Facilities. Aboveground facilities may be installed only

- (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 street 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.

33-10-18 CONSTRUCTION METHODS AND MATERIALS.

(A) **Particular Construction Methods.** The standards and requirements for particular types of construction methods are as follows:

(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 Engineer 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 or protected 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 accordance 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 Engineer.

(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 (NMUTCD) issued by the Federal Highway Administration as amended by the Illinois Supplement to the MUTCD, 2003 edition. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection.

Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.

- (c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the City to be preserved.
- (3) **Backfilling.**
- (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Engineer, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Engineer.
- (4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be permitted on a street only if that portion of the street is closed to traffic. If a variance to the limitation set forth in this paragraph is permitted under **Section 33-10-23**, the following requirements shall apply:
- (a) Any excavation under pavements shall be backfilled with flowable fill as soon as practicable.
 - (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair shall be provided immediately with a bituminous mixture with a minimum of **eight (8) inches** of aggregate base course and **three (3) inches** of bituminous cold patch mixture. 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 JULIE locate.

- (5) **Encasement.**
- (a) Casing pipe shall be designed to withstand the load of the street 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 street.
 - (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 street 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) **Particular Facility Types.** The standards and requirements for particular types of facilities are as follows:

- (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 Part 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.
- (d) **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 street;

- (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), the 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” as published by the Illinois Society of Professional Engineers.
- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Engineer. With the approval of the Engineer, 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 Engineer. 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 rights-of-way, prior approval must be obtained from the City.

- (3) **Hazardous Materials.** The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D) **Operational Restrictions.**

- (1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
- (2) These restrictions may be waived by the Engineer when emergency work is required to restore vital utility services.
- (3) The hours of construction are those established or otherwise permitted by the City.

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the City shall contact JULIE 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 JULIE, 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.*)

33-10-19 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 State 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 State 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.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.
- (2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively damaged and for trees removed without authorization. The

formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(C) **Specimen Trees or Trees of Special Significance.** The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

(D) **Chemical Use.**

- (1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.
- (2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Engineer that such spraying is the only practicable method of vegetation control.

33-10-20 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 facilities wherever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary:

- (1) 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; or,
- (2) To alleviate a threat or impairment to the health, safety or welfare of the City's citizens.

(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, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances

permit, the City 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, 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 Engineer 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.

33-10-21 CLEANUP AND RESTORATION.

(A) **Restoration.** Unless the City chooses to require the payment pursuant to **Section 33-10-21(D)**, the utility shall restore the right-of-way as provided herein. A utility shall remove all excess material and restore all rights-of-way, turf and terrain and other property within **five (5) days** after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility to a condition substantially equivalent to that which existed prior to the commencement of the project and is approved by the Engineer. Restoration work may include repairing entrances and side streets, backfilling, regrading, reseeding, and resodding. All restoration work shall be approved by the Engineer.

(B) **Restoration Specifications.** Restoration of rights-of-way surfaces shall be made using materials and methods provided in this Section or otherwise approved by the Engineer.

(1) **Streets.** Restoration of streets shall be as follows:

- (a) The utility shall construct a permanent patch consisting of a minimum of **eight (8) inches** of PCC for concrete streets and **four (4) inches** of bituminous concrete for bituminous surfaced streets on all excavation openings. In general, the utility shall construct a permanent patch consisting of a minimum of **eight (8) inches** of PCC for concrete streets and **four (4) inches** of bituminous concrete for bituminous surfaced streets on all excavation openings. The surface shall have a minimum **two percent (2%)** transverse slope. The surface shall be of positive drainage and no standing water shall exist. Any patch over **fifty (50) feet** long shall be completed with a paving machine.
- (b) If surface repairs constitute more than **fifty percent (50%)** of a **fifty (50) foot** segment of a street as measured from the beginning of any repair to the end of any other repair, the utility, at its expense, shall resurface that section of the street. The section of the street to be resurfaced shall be determined by the City Engineer based on the disturbance: at the minimum it shall mean the full width of the traffic lane or to the seam of the original overlay; at the maximum it shall mean the entire width of the street. Resurface shall mean a minimum of 1.5" mill and 1.5" hot mix asphalt resurface. Resurfacing shall be completed with a paving machine. The surface shall have

a minimum **two percent (2%)** transverse slope. The surface shall be of positive drainage and no standing water shall exist.

- (c) If more than **three (3)** pavement repairs are made in any **one hundred (100) foot** section of a street, the utility, at its expense, shall resurface that section of the street. The section of the street to be resurfaced shall be determined by the City Engineer based on the disturbance: at the minimum it shall mean the full width of the traffic lane or to the seam of the original overlay; at the maximum it shall mean the entire width of the street. Resurface shall mean a minimum of 1.5" mill and 1.5" hot mix asphalt resurface. Resurfacing shall be completed with a paving machine. The surface shall have a minimum **two percent (2%)** transverse slope. The surface shall be of positive drainage and no standing water shall exist.

- (2) **Sidewalks.** Restoration of sidewalks shall consist of a minimum of a **four (4) inch** aggregate base course under a minimum of **four (4) inches** of PCC.

(C) **Extension.** The time period provided in this Section may be extended by the Engineer for good cause shown.

(D) In the event the City plans a future improvement to the right-of-way, the City has the option to require the utility to make a payment to the City, rather than performing the restoration. The amount of such payment shall be the amount of the cost estimate obtained from a contractor of the City's choice, plus engineering costs equal to **ten percent (10%)** of the cost estimate.

33-10-22 MAINTENANCE.

(A) **General Maintenance.** Facilities are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

(B) **Maintenance of Repairs.** Any utility that performs restoration work on a right-of-way pursuant to a permit issued under this Article shall be responsible for the repair of any defects and the maintenance of the restoration work from the time the restoration work is made until such time as the right-of-way is either overlaid or repaved.

33-10-23 VARIANCES.

(A) **Request.** A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Engineer 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.** The Engineer shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

(C) **Conditions Required.** The Engineer 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 May Be Required.** As a condition for authorizing a variance, the Engineer 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.

33-10-24 RIGHT TO APPEAL. Any permittee aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Engineer 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 next City Council regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The City Council shall timely decide the appeal.

33-10-25 EMERGENCY WORK.

(A) **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 street or the public on the right-of-way including the use of signs, lights, barricades or flaggers. 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 Engineer or his duly authorized agent of the emergency, informing him 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.
- (4) When the safety or convenience of the public or other substantial public interest requires that emergency work be performed, the City may require a utility to employ a crew **twenty-four (24) hours** a day until the work is completed.

(B) **Emergency Repairs.** The utility must file in writing with the City a description of the emergency repairs undertaken in the right-of-way by **12:00 P.M.** on the next business day.

(Ord. No. 2017-15; 11-07-17)

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)

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: _____, _____ SIGNED: _____
(APPLICANT)

CULVERT/DRIVEWAY PERMIT

APPLICATION

Approved ()

Disapproved ()

If disapproved, state reasons:

DATED: _____, _____ 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: _____, _____ SIGNED: _____

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 this Chapter.

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. **(See 65 ILCS Sec. 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 provide a pleasant living environment by furthering the orderly layout and development of land;
- (C) To avoid legal and other problems by requiring that subdivided land be properly monumented and recorded;
- (D) To conserve and increase the value of land, improvements, and buildings throughout the City;
- (E) To preserve the City's natural beauty and topography to the maximum feasible extent;
- (F) To protect against injury or damage caused by pollution, storm water runoff, or erosion and sedimentation;
- (G) 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;

- (H) To insure the proper installation and maintenance of adequate water mains, sanitary sewers, storm water sewers, and other utilities and services: and
- (I) To insure that in conservation areas, adequate parks and similar facilities can be made available to serve the residents of new developments.

(See 65 ILCS Sec. 5/11-12-8 through 5/11-12-12; 765 ILCS Sec. 205/1, et seq.)

34-1-4 INTERPRETATION. This Code is intended as **Minimum Requirements** to provide for coordinated, efficient, and economic development of the City, to insure the adequacy of street and utility facilities, and to promote the public health, safety and welfare.

Thus, in accordance with State law, whenever this Chapter imposes higher standards than the **County Subdivision Ordinance and the Plat Act, Chapter 109**, the higher standards shall supersede the County regulations in the unincorporated territory located within the subdivision jurisdiction of the City.

34-1-5 APPLICATION OF CODE. **No lot, tract, or parcel of land in a subdivision**, as defined herein, may be conveyed unless a **Final Plat** of the property has been approved according to the requirements and provisions of this Code and recorded in the office of the County Recorder of Deeds, except in those instances listed in **Section 34-1-9 when subdivision plats will not be required.**

34-1-6 SUITABILITY OF LAND FOR SUBDIVISION DEVELOPMENT. Land unsuitable for subdivision development due to drainage, flood hazard area, hillside area, rock formation or any other condition(s) constituting a danger to health, life or property shall not be approved for subdivision development unless the subdivider presents evidence or data satisfactory to the **City Council**, 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:

"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.

"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 turn-around 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.

"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 City Council 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 SUBDIVISION PLATS WILL NOT BE REQUIRED. The provisions of these regulations **do not** apply and no subdivision plat is required in any of the following instances, provided, however, all of the resulting divisions shall conform to the **County Zoning Code**:

- (A) The division or subdivision of land into parcels or tracts of **five (5) acres or more** in size which does not involve any new streets or easements of access;
- (B) The division of lots or blocks of less than **one (1) acre** in any recorded subdivision which does not involve any new streets or easements of access;
- (C) The sale or exchange of parcels of land between owners of adjoining and contiguous land;
- (D) The conveyance of parcels of land or interests therein for use as a right-of-way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;
- (E) The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

(F) Conveyances made to correct descriptions in prior conveyances;

(G) The sale or exchange of parcels or tracts of land following the division into **no more than two (2) parts** of a particular parcel or tract of land existing on **July 17, 1959**, and not involving any new streets or easements of access, provided, however, a plat of survey shall be prepared by a registered surveyor and submitted to the City Council;

(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 City Council 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 with the purpose and objectives of this Code as listed in **Section 34-1-3**.

34-1-9 DISCLAIMER OF LIABILITY.

(A) Except as may be provided otherwise by statute or ordinance, no official, council member, agent, or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. **(See "Local Governmental Employees Tort Immunity Act", 745 ILCS Sec. 10/1-101)**

(B) Any suit brought against any official, council member, agent, or employee of this City as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the City Attorney until the final determination of the legal proceedings.

ARTICLE II - PRELIMINARY PLAT**DIVISION I - PROCEDURE**

34-2-1 PRE-APPLICATION CONFERENCE. Before submitting a preliminary plan and plat, the applicant is encouraged to confer with the Mayor and the City Council 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 34-1-8** -- 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 Mayor **ten (10) copies** of the Preliminary Plan and Plat at least **ten (10) days** prior to the regularly scheduled City Council meeting. Such application shall include the following:

(A) **Requested Information.** A written request to the City Council for preliminary review of such subdivision and a general description of the location and size of the tract to be

platted; the intent as to character type and use of the property and structures to be developed; the deed restrictions proposed, if any; a statement of mineral rights; the extent and character of the improvements to be made by the subdivider, the zone district classification(s) of the territory and compliance of the proposed subdivision thereto. If appropriate, a description of any unique hardship or difficulty limiting the physical development of the property under consideration and a description of any past history of the property under consideration which is pertinent thereto.

(B) **Documentation.** The necessary documentation in accordance with the requirements of this Code. **(See Section 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 Mayor 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; **two (2) copies** to the City Council; and a copy to the Fire Chief.

(B) **Time Constraints.** The City Council 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) **City Council Review.** The action of the City Council shall be noted in writing, and if such Preliminary Plat is disapproved or is conditionally approved, the City Council 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.

(D) **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 Mayor 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 City Council, have final approval of the last part of the Plat delayed for a period not to exceed **three (3) years** from the date of the Preliminary Plat approval. Any part of a subdivision which is being developed in stages shall contain a tract of land at least **one (1) block** in length.

- (2) That the general terms and conditions under which the Preliminary Plat approval was granted will not be changed.

34-2-5 RESERVED.

DIVISION II - PRELIMINARY PLAT REQUIREMENTS

34-2-6 REQUIREMENTS. Every Preliminary Plat shall be prepared by a land surveyor registered in the State of Illinois. The Preliminary Plat to be provided by the subdivider **shall meet and include** the following specifications and supporting data:

- (A) Proposed name of the subdivision and location.
- (B) Small key map showing the relation of the proposed subdivision to Section or U.S. Survey Lines and to platted subdivisions and dedicated streets within **three hundred (300) feet** of the proposed subdivision.
- (C) Names and addresses of the owner, subdivider, land planning consultant and the Illinois Registered Land Surveyor who prepared the Preliminary Plat.
- (D) Existing and proposed streets or alleys and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street roadway and right-of-way widths, approximate gradients, types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all streets as to function as established herein.
- (E) All lot lines adjacent to and abutting the subdivision.
- (F) Layout of lots, showing approximate dimensions, numbers, lot area, and zone district classification(s).
- (G) Parcels of land, if any, proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes and use(s) of the area to be subdivided.
- (H) Easements, existing and proposed, showing locations, widths and purposes.
- (I) Building setback line and dimensions.
- (J) Location and size of existing public utilities and drainage ways or facilities within or adjoining the proposed subdivision and the location and size of nearest water trunk mains, interceptor sewer lines and other pertinent utilities.
- (K) Location, type and approximate size of utility improvements to be installed.
- (L) Tract boundary lines showing dimensions, bearings, angles and references to known land lines.
- (M) The gross area and net area acreage of the proposed subdivision, the acreage of streets, and of any areas reserved for the common use of the property owners within the subdivision and/or for public use.
- (N) 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 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 City Council 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 City Council, 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 City Council, any temporary dead-end street shall be provided with a temporary turnaround. In no case shall access be denied to any parcel or part of a parcel of ground by the subdividing of land.

(D) Streets shall intersect, as nearly as possible, at right angles.

(E) Local street curb intersections shall be rounded by radii of at least **fifteen (15) feet**; intersections involving collector or arterial streets shall have radii of not less than **twenty-five (25) feet**.

(F) Street jogs with center line offsets of less than **one hundred twenty-five (125) feet** are prohibited.

(G) Unless topography indicates a need for a greater length, dead-end streets designed to be so permanently shall be no longer than **five hundred (500) feet** and shall terminate in a circular open space having a radius at the outside of the pavement of at least **forty-two (42) feet** and a diameter at the outside of the right-of-way of at least **one hundred (100) feet**.

(H) Local streets shall be designed so as to discourage through traffic.

(I) No local street grade shall be in excess of **ten percent (10%)** and no collector street or arterial street grade shall be in excess of **seven percent (7%)**, except as otherwise approved by the City Council 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 City Council **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, alleys 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.**

(O) 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 City Council 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 City Council.

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.

(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 City Council, make the area safe for human occupancy and use, and 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 City Council for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control.

(C) No existing ditch, stream, drain or drainage canal shall be deepened, widened, filled, rerouted or filled without written permission from the City.

(D) Where artificial channels must be constructed to augment the natural drainage system, such channels as well as the natural drainage ways may be planned as part of a recreational trail system. Channels shall be designed to be aesthetically compatible for recreational trail use.

(E) The drainage system shall be constructed and operational during construction or as approved by the City.

(F) The natural drainage system shall be used as far as is feasible for the storage and flow of runoff.

(G) No plat shall be recorded for any subdivision situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640)**

acres or more, until such plan or map has been reviewed by the Department of Transportation, either independently or in cooperation with Federal, State or local agencies, for the purpose of determining, for the protection of persons and property, the flood hazards involved, and a report thereon filed by that Department with the County Recorder.

34-2-12 **EROSION AND SEDIMENT CONTROL.** The following standards shall be applied in the subdivision and construction of land areas:

(A) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(B) Natural plant covering shall be retained and protected so far as is consistent with development of the site.

(C) When soil is exposed, the exposure shall be for the shortest feasible period of time.

(D) Land shall be developed in increments of workable size, such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(E) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(F) Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.

(G) Sediment basins, debris basins, desilting basins, or silt traps shall be installed and maintained to remove sediment from runoff waters undergoing development.

(H) Temporary vegetation or, where appropriate, mulching or other non-viable cover shall be used to protect areas exposed during development.

(I) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of **four (4) inches** and shall be of a quality at least equal to the soil quality prior to development.

(J) Permanent final plant covering or structures shall be installed as soon as possible.

34-2-13 **EASEMENTS.**

(A) Easements of not less than **seven and one-half (7 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 City Council.

(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 (1,000) feet** or less than **four hundred (400) 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 § 34-3-13(B))**

(C) The length, width, and shapes of blocks shall be determined with due regard to building sites, land use, county 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 in 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 City Council, 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 therefor as determined by the above described appraisers, or a sum that is mutually agreed upon. The City Council may accept any donation of land as above described should the subdivider desire to contribute the same to the City.

34-2-16 UTILITIES.

(A) Source of domestic water, electric and gas supply and the type of sewage disposal.

(B) Storm water drainage.

(1) Complete storm sewer system, including pipe sizes, inlets and inverts.

(2) A proposed surface water drainage pattern for each individual lot, block, and street.

(C) All easements as required shall be indicated.

(D) **Protective Covenants.** An outline of all proposed protective covenants shall accompany the preliminary plan and shall include a protection against the obstruction of any surface water drainage easement.

34-2-17 LOTS.

(A) **Minimum Size.** All lots in a subdivision shall conform to the minimum lot area and dimensions requirements of the county zoning district in which the subdivision is located; land that is under water or reserved for street improvements shall not be counted in determining compliance with requirements. **(See Peoria County Zoning Code)**

(B) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, properly related to topography and the character of surrounding development.

(C) All side lines of lots shall be at right angles to straight street right-of-way lines and radial to curved street right-of-way lines, except where a variation of this rule will provide a better street and lot design.

(D) All remnants of lots below minimum lot area size left over after subdividing of a larger tract shall be added to adjacent lots, rather than allowing to remain as unusable land, except when designated for utility purposes or accepted for public space for park or other public uses.

(E) Lots 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.

(F) The subdividing of the land shall be such as to provide each lot with satisfactory access to public streets. The City Council 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 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 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 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 Mayor by the subdivider, **four (4) copies** of the engineering plans and specifications as required in **Division II** of this Article. The Mayor shall notify the City Council of this action at the next regular City Council meeting. In the event of a special problem, the Mayor shall notify the owner or subdivider of the time and place at which he shall be afforded an opportunity of being heard. In the event of disapproval of the engineering plans and specifications by the City Council, the same shall be immediately returned so marked to the Mayor for return to the subdivider, and may be refilled with the Mayor 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 **one-half (1/2) inch** iron pins not less than **thirty (30) inches** in length, driven into the ground, shall not protrude above the ground more than **one and one-half (1 1/2) inches** and shall be placed in the field as required by the **Illinois Compiled Statutes.**

All lot corners shall be marked by **one-half (1/2) inch** iron pins not less than **thirty (30) inches** in length and driven into the ground and shall not protrude above the ground surface more than **one and one-half (1 1/2) inches**.

These monuments must be placed at all corners, at the end of all curves, at the point where a curve changes its radius, at all angle points along a meander line, the points to be not less than **twenty (20) feet** back from the normal water elevation of a lake or from the bank of a stream, except that when such corners or points fall within a street or proposed future street, the monuments must be placed in the right-of-way line of the street. All internal boundaries, corners and points must be monumented in the field by like monuments as defined above.

34-3-6 STREET IMPROVEMENTS. All streets shall be graded as hereinafter provided:

(A) **New Streets.** All new streets, which are created and dedicated for use within a subdivision, shall be graded, drained and surfaced in accordance with the minimum requirements hereinbelow set forth and in a manner which will provide complete and adequate drainage of all the streets, alleys, and public grounds which may be necessary in order to provide adequate and satisfactory drainage along the side of any existing public street which lies adjacent to the subdivision.

In general, all such new streets within the subdivision and all work to be undertaken thereon shall be designed and constructed according to the specifications adopted by the **State of Illinois Department of Transportation**; as the same are in effect at the time the Preliminary Plat and plans for such improvement work are submitted for approval.

(B) **Grading Roadway and Side Slopes.** The roadway shall be considered to be that part of the improvement which lies between the right-of-way lines, and which roadway shall not be less than **fifty (50) feet** in width on local streets and **sixty (60) feet** on collector streets.

(C) **Combination Concrete Curb and Gutter.** Combination concrete curb and gutter shall be built in accordance with the detail shown on **Figure 3**. The minimum distance from back to back of curbs shall be **thirty-eight (38) feet** on local streets and **forty-two (42) feet** on collector streets.

(D) **Street Construction Standards.** All streets within the jurisdictional authority of the City, other than State highways, shall be improved with pavements bounded by integral concrete curbs and gutter, in accordance with the following criteria:

- (1) **Specifications** shall be as follows:

<u>Street Type</u>	<u>Dedicated Street Width</u>	<u>Pavement Width</u>	<u>Pavement Type</u>
Arterial (Primary)	80 feet	50 feet	*
Collector (Secondary)	60 feet	38 feet	Bituminous Surface Treatment (See Below)
Local (Minor)	50 feet	34 feet	Bituminous Surface Treatment (See Below)
Cul-de-sac	50 feet	32 feet	Bituminous Surface Treatment (See Below)

* **To be mutually agreed upon between the City and the developer.**

- (2) **Collector** street pavements shall be provided with a bituminous surface of **one and one-half (1 1/2) inches** of bituminous concrete binder and **one and one-half (1 1/2) inches** of bituminous concrete surface course Class I placed upon a crush stone base course of CA #6 having a minimum thickness of **six (6) inches** compacted. The center **forty-two (42) feet** of the base course shall have a crown of **three (3) inches**.
- (3) **Local** street pavements shall be provided with a CA #6 crushed stone base course, having a minimum thickness of **eight (8) inches** compacted. An A-3 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 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 through 5 at the end of this Chapter.)**

(E) **Alleys.** Alleys, where permitted or required, shall be constructed as specified for local streets.

(F) **Utility Lines.** Underground utilities in streets or rights-of-way or in easements shall be installed prior to the construction of such streets and/or alleys. Wherever possible, utilities will be placed in rear lot easements with street placement permitted in only the most unusual circumstances.

34-3-7 STORM SEWERS AND OTHER DRAINAGE APPURTENANCES. In addition to the installation of curbs or gutters along the streets, as required by **Section 34-3-6(C)** of this Article, storm sewer systems may be constructed throughout the entire subdivision to carry off water from all inlets and catch basins, and shall be connected to an adequate outfall. Such sewers shall provide for an extension to land lying within the upland drainage area, whether such land is within the subdivision or not. Storm sewers shall be designed by the rational method; and copies of the design computations shall be submitted with the plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than **six hundred (600) feet** in the gutter. The storm sewer 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 Mayor, may require the installation of storm sewers.

34-3-7.1 SUMP PUMP DRAIN LINES. The subdivider shall provide a sump pump drain line which shall serve each lot in the subdivision. Construction of the sump pump drain line shall be in accordance with the Standard Road and Bridge Specifications. The sump pump drain line shall be constructed of PVC pipe having a minimum diameter of **six (6) inches**. Sump pump drain lines shall be drained to storm sewer inlets, manholes or drainage ditches. Manholes or clean-outs shall be provided at maximum spacing of **five hundred (500) feet** on center and on the end of all lines. Manholes or clean-outs shall also be provided at all changes in the direction of the sump pump drain line. A **one and one-half (1.5) inch** sump pump service stub shall be provided to each lot in the subdivision to a point **ten (10) feet** inside of the front lot line. Lateral connections to the sump pump drain line shall be made with approved factory fittings. **(Ord. No. 2003-06; 11-18-03)**

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 City Engineer.

(E) All tap-in fees, if applicable, shall be paid in advance as prescribed in **Chapter 38 of the City Code.**

(F) The minimum size for all sewer mains shall be **eight (8) inches** at a slope of **0.4%** and for service lines the minimum shall be **six (6) inches** at a slope of **1.0%**.
[NOTE: This prevents the street from being torn up after construction.]

34-3-10 WATER SYSTEM.

(A) All water main plans and installations, including all appurtenances thereto, shall conform to "**The Standard Specifications for Water and Sewer Main Construction in Illinois,**" as established by the **Illinois Society of Professional Engineers.**

(B) Water distribution facilities, including all pipe, fittings, hydrants, valves, vaults, etc., shall be installed to serve all properties within the subdivision.

(C) Where water mains of a larger capacity than **six (6) inches** are necessary to serve the subdivision, as delineated in the Preliminary Plan, and are required to serve the future growth in the vicinity of the subdivision, as determined by the City Council, the City shall then reimburse the difference in cost of the smaller size and the larger size pipe. The larger size shall be determined by the City Council.

(D) The construction of the water system shall conform to the approved plans and specifications and all work shall be properly inspected and approved by the City Engineer. Water service line **shall be extended** to each lot in the subdivision prior to the City accepting the street(s) for maintenance.

(E) Fire hydrants shall be located and installed by the subdivider with the approval of the Superintendent as part of the water distribution system. Installation of hydrants shall be accomplished in such a manner that each lot is within **four hundred**

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 (6) inches** in diameter. Hydrants installed shall be of the type approved by the Superintendent. The mains shall be looped. Valves shall be provided at **eight hundred (800) foot** intervals.

(F) All tap-in fees, if applicable, shall be paid in advance as prescribed in **Chapter 38 of the City Code.**

[See Section 34-6-2, Schedule "B" for Requirements.]

34-3-11 STREET NAMES AND SIGNS.

(A) **Street Names.** The names of new streets shall be sufficiently different in sound and spelling from the names of existing streets in the City to avoid confusion. A street which is planned as a continuation of an existing street shall bear the same name as the existing street.

(B) **Street Name Signs.** Street name signs shall be erected by the developer at all intersections within or abutting the subdivision with the approval of the Street Superintendent. Signs shall be embossed steel U.S. Standard Street Signs (or the equivalent thereof), measuring **six inches by twenty-four inches (6" x 24")**, with lettering at least **four (4) inches** high. All street name signs shall be mounted on **two (2) inch** diameter galvanized pipe set in concrete to a depth of at least **three (3) feet** and extending above the surface to a height of at least **seven (7) feet.**

34-3-12 PUBLIC UTILITIES: TELEPHONE AND CABLE TELEVISION.

All utility lines and cable television service lines shall be placed in rear-line easements when carried on overhead poles.

34-3-13 SIDEWALKS AND DRIVEWAY APPROACHES.

(A) Concrete sidewalks not less than **four (4) inches** in thickness and **four (4) feet** in width may be constructed within the street right-of-way and adjacent to the property line. For driveways, the sidewalks and approaches shall be **six (6) inches** thick. **(Ord. No. 2017-09; 10-17-17)**

(B) In the event a crosswalk is required in accordance with **Section 34-2-14**, a concrete sidewalk not less than **four (4) inches** in thickness and **four (4) feet** in width shall be constructed and at a grade no steeper than **fifteen percent (15%)** unless steps of adequate design are provided.

34-3-14 - 34-3-15 RESERVED.

DIVISION III - APPROVAL OF DESIGN PLANS

34-3-16 **CHECKLIST.** In order to qualify for approval, the engineering plans shall be accompanied by a properly executed checklist as shown in **Section 34-6-2, Schedule "B"**.

34-3-17 **CHANGES OR REVISIONS.** The City Council may require such changes or revisions as are deemed necessary in the interest and needs of the community.

[NOTE: The City Engineer is usually designated to review plans.]

34-3-18 **APPROVAL, TENTATIVE.** The City Council 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 City Council.

34-3-19 **LETTER OF APPROVAL.** Final approval of the complete set of engineering plans shall consist of a letter of approval from the City Council, 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 City Council or a period of time beyond **six (6) months** that may be granted by the City Council, there shall be submitted to the City Council 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 City Council and the Mayor. 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 Mayor shall refer the original drawing and **two (2) copies** of the final plat to the City Council, 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 City Council shall notify the owner or subdivider as to the time and place of the City Council meeting at which time he will be afforded an opportunity of being heard.

(B) **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.

(C) **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.

(D) **Posting Performance Bond.** If the Final Plat is approved by the City Council, the Final Plat shall be held by the City Clerk until such time the subdivider posts a performance guarantee bond as required by **Division IV of this Article.**

Upon receipt of said performance guarantee or bond, the Mayor shall affix his signature to the Final Plat and attach thereto a notation that the Final Plat has received final approval of the City Council; the Clerk shall attest the signature of the Mayor and affix the seal, and attach a certified copy of the City Council's resolution of approval to the approved Final Plat. If such

performance guarantee or bond is not posted by the subdivider within **sixty (60) days** from the date of approval of the Final Plat by the City Council, approval of such Final Plat shall expire and become null and void.

34-4-2 - 34-4-3 RESERVED.

DIVISION II - FINAL PLAT REQUIREMENTS

34-4-4 REQUIREMENTS - SUBDIVIDER. The Final Plat to be provided by the subdivider shall meet the following specifications:

(A) The Final Plat may include **all or only a part** of the Preliminary Plat which has received approval.

(B) The Final Plat shall be drawn on new linen tracing cloth, mylar or a polyester-base 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 inches (42") square**, a scale of up to **two hundred feet to one inch (200' = 1")** may be used.

(C) **Four (4)** black or blue line prints shall be submitted with the original tracing of the Final Plat, or in order to conform to modern drafting and reproductive methods, **four (4)** black or blue line prints and reproducible cloth or film positives of the Final Plat shall be submitted.

Prints filed with the City shall include: **One (1)** black or blue line print made after recording of the Final Plat and bearing the official stamp attesting the fact of the recording; and **one (1)** reproducible print or film positive of the Final Plat, as approved.

(D) All dimensions shall be shown in feet and decimals of a foot and/or meters.

(E) All surveys for a Final Plat shall be made under the active and personal direction of an **Illinois Registered Land Surveyor**, and the following basic information shall be shown:

- (1) Accurate boundary lines with dimensions and bearings or angles which provide a survey of the tract, closing with an error of closure of not more than **one (1) foot in five thousand (5,000) feet.**

- (2) Accurate distances and directions to the nearest established official monument. Reference corners shall be accurately described on the Final Plat.
- (3) All elevations shall be referenced to the established datum and the 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 _____, 19__.

_____(SEAL)

_____(SEAL)

(B)

NOTARY PUBLIC'S CERTIFICATE

STATE OF ILLINOIS)
)
) ss
COUNTY OF PEORIA)

I, _____, Notary Public, in and for said County in the State aforesaid, do hereby certify that _____, personally known by me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument as such owner(s), appeared before me this day in person and acknowledged that they signed and delivered this plat as their own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 20__, at _____.

NOTARY PUBLIC

(C)

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS)
)
COUNTY OF PEORIA) **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 PEORIA) **ss**

I, _____, County Clerk of Peoria County, 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)
CITY OF ELMWOOD) **ss**
COUNTY OF PEORIA)

I, _____, Mayor of the City of Elmwood, 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 this _____ day of _____, 20_____.

Mayor

City Clerk

(F)

FLOOD HAZARD CERTIFICATE

STATE OF ILLINOIS)
CITY OF ELMWOOD) **ss**
COUNTY OF PEORIA)

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 Peoria County.

By: _____
(OWNER)

(OWNER)

By: _____
ILLINOIS LAND SURVEYOR

REGISTRATION NUMBER

DATE: _____

(G)

SUPERINTENDENTS OF WATER, SEWER, AND STREETS

STATE OF ILLINOIS)
CITY OF ELMWOOD) ss
COUNTY OF PEORIA)

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 City Clerk. Final approval and signature by the Mayor and the City Clerk 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 Mayor or his designated representative.

The cost of any re-inspection of any required land improvement found to be faulty or not in accordance with the approved plans and specifications shall be paid by the subdivider to the City. The testing of any concrete, asphalt, soil, or other materials and workmanship shall be done at the direction of the City and at the expense of the subdivider.

34-4-14 **RELEASE OF BOND.** The subdivider's bond or guarantee collateral shall be released only upon fulfillment of the following conditions:

- (A) The completion of all required land improvements.
- (B) The submission of **four (4) copies** of acceptable "as-built" drawings of all land improvements.
- (C) An affidavit to the effect that:
 - (1) All materials, labor, and other costs have been paid, or arrangements have been made for payment so as to hold the City free from any obligations for payment of any costs of the land improvements, and
 - (2) that the subdivider accepts responsibility for the maintenance and repair of all land improvements for **one (1) year** after the date of the acceptance resolution by the City Council.
- (D) Final Acceptance, by resolution by the City Council of all land improvements.

ARTICLE V - ADMINISTRATION

34-5-1 **ENFORCEMENT OFFICER - DUTIES.** The Mayor or his authorized representative 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 City Council;
- (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 City Council;

(G) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on such matters to the City Council 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 Mayor 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 Mayor shall prepare an advisory report on variance application and submit it, together with the completed application to the City Council.

(A) **Action by City Council - Variance Standards.** At the same meeting at which they take action on the application for preliminary plat approval, the City Council shall decide by resolution whether to grant or deny the requested subdivision variance. A copy of their decision, clearly stating their reasons therefor and the exact terms of any variance granted shall be attached to **both** the preliminary and final plats. The City Council shall not grant any subdivision variance unless, based upon the information presented to them, they determine that:

- (1) The proposed variance is consistent with the general purposes of this Code; and
- (2) strict application of the subdivision design and improvement requirements would result in great practical difficulties or hardship to the applicant, not a mere inconvenience; and
- (3) the proposed variance is the minimum deviation from the subdivision requirements that will alleviate the difficulties/hardship; and
- (4) the plight of the applicant is due to peculiar circumstances not of his own making; and
- (5) the peculiar circumstances engendering the variance request are not applicable to other tracts, and therefore, that a variance would be a more appropriate remedy than an amendment; and
- (6) the variance, if granted, will not substantially impair implementation of the City Community Plan, including the Official Map, if any.

34-5-3 AMENDMENTS. Amendments to this Code may be proposed by the Mayor, any member of the City Council, or any party in interest. Every amendment proposal shall be filed on a prescribed form in the City Clerk's office. The City Clerk shall promptly transmit each proposal, together with any comments or recommendations he may wish to make to the City Council.

34-5-4 ACTION BY CITY COUNCIL. Within a reasonable time the City Council shall act on the proposed amendment. The City Council may either pass or reject the proposed amendment or may refer it back to a committee 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 improvements plans	\$25.00
Improvements inspection	Actual Engineering
Filing final plat	\$25.00
Filing variance request	\$50.00
Filing amendment proposal	\$25.00

34-5-6 RECORDING. The City Clerk shall not accept a Final Plat for filing with the County Recorder of Deeds unless the following conditions are met:

- (A) The Final Plat conforms to all requirements specified by the City Council as conditions of approval.
- (B) The Final Plat meets the Design Standards and engineering specifications set forth herein.
- (C) The Final Plat meets all requirements of the laws of the State of Illinois.
- (D) The subdivider or applicant establishes sufficient proof of his intent and ability to post a guarantee or performance bond or bonds with the City as required by **Section 34-4-11** to the estimated construction cost of all improvements intended to be dedicated to the City for maintenance and operation.

No subdivision Plat or Re-plat of land within the jurisdiction of the City shall be filed for record or recorded in the Office of the County Recorder of Deeds, unless and until the approval of the City Council is endorsed thereon by the City Clerk.

No lot shall be sold for such subdivision Plat or Re-plat until it has been approved by the City Council and filed for record in the Office of the County Recorder of Deeds as herein provided.

The developer shall file the approved Final Plat and ordinance with the County Recorder of Deeds not more than **thirty (30) days** from the date of posting of and not prior to the posting of the performance guarantee or bond as required by **Section 34-4-11** and **34-4-12**; **two (2) copies** of such Final Plat and ordinance shall be kept on file by the City Clerk; **one (1)** such copy filed with the Mayor; and **one (1) copy** shall be returned to the subdivider.

The City Council shall not permit any public improvements under its jurisdiction to be constructed or maintained within an area that has been subdivided after the adoption of this Code unless such subdivision has been approved in accordance with the requirements contained herein.

No Building and Zoning Occupancy Permit shall be issued by the 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 Secs. 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 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 City Council, the City shall use the maintenance bond to make the necessary repairs/replacements.

If the cost of the repairs/replacements exceeds the bond amount, the subdivider/ developer shall be liable for the excess. At the end of the **one (1) year** period, the maintenance bond shall be released.

ARTICLE VI - SCHEDULES AND BONDS

34-6-1 SCHEDULE "A" - CHECKLIST FOR PRELIMINARY PLAN.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due Date of Recommendation - 60 Days)

(NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers "not applicable" to this particular subdivision by the abbreviation "N.A.").

- ____1. Six (6) copies of preliminary plan submitted.
- ____2. Plans conform to **Section 34-2-6.**
- ____3. Plan scale is not less than 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

- _____17. (Continued)
 - _____k. (continued)
 - _____3. catch basins
 - _____4. invert elevations
 - _____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. 42 feet roadway width back-to-back
 - _____3. Local (minor) streets, indicating:
 - _____a. 50 feet right-of-way width
 - _____b. 38 feet roadway width back-to-back of curbs

_____20. (Continued)

- _____4. Cul-de-sac streets, indicating:
 - _____a. 50 feet right-of-way width.
 - _____b. 32 feet roadway width back-to-back of curbs.
 - _____c. The length does not exceed 500 feet unless there are less than 16 lots abutting the cul-de-sac street.
 - _____d. Terminus is circular or nearly so, and right-of-way is at least 100 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.
- _____c. Street improvement plan showing location of all new street improvements, including those to the center line of previously dedicated rights-of-way, abutting the subdivision, in accordance with present standards of the City.
- _____d. Utility easements:
 - _____1. Located at the rear of each lot and other necessary locations.
 - _____2. Not less than 10 feet in width on each lot.
 - _____3. Purpose is indicated.
 - _____4. Storm water runoff is indicated.
- _____e. Centerline profiles of all streets showing gradients not less than 0.4 percent and not more than:
 - _____1. 5.0% on collector streets.
 - _____2. 7.0% on minor streets.
- _____f. Pedestrian ways, when required, indicating: **(Sec. 34-2-14)**
 - _____1. Location at approximately the center of the blocks in excess of 900 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.

____20. (Continued)

____g. (continued)

____2. Additional access ways to parks, schools, etc., are shown in accordance with the requirements of the City Council.

____3. Blocks fit readily into the overall plan of the subdivision, with due consideration given to:

- ____a. topographical conditions
- ____b. lot planning
- ____c. traffic flow pattern
- ____d. public open space areas

____4. Block numbers

____5. Blocks intended for commercial, industrial or institutional use are so designated.

____h. Lot layout, indicating:

____1. Lot dimensions.

____2. Lot areas, not less than those stipulated in the appropriated district regulations of the County Zoning Code.

____3. Building setback lines shown and properly dimensioned.

____4. Proposed land use.

____5. Lot numbers.

____6. Corner lots are sufficiently larger than interior lots to allow maintenance of building setback lines on both street frontages and still allow a buildable width equal to that of the smallest interior lot in the block.

____7. All lots abut a publicly dedicated street for a distance of not less than the minimum width of the lot.

____8. Lots are as nearly rectangular in shape as is practicable.

____9. Lots are not less than the provisions of any County Zoning requirements.

____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 addition 20 feet deeper than average.
- ____d. a protective screen planting is indicated on one frontage.

_____20. (Continued)

- _____h. (continued)
 - _____12. Lots abutting or traversed by a watercourse, drainage way, 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
 - _____b. watercourses
 - _____c. historic items
 - _____d. other similar conditions
- _____i. Areas intended to be dedicated for public use, indicating:
 - _____1. Plan conforms to general development plan of the municipality.
 - _____2. Purpose.
 - _____3. Acreage.
- _____j. Source of domestic water supply, indicating:
 - _____1. Connection to existing water mains.
 - _____2. Location of site for community water plant.
- _____k. Provision for sewage disposal, indicating:
 - _____1. Connection to existing sanitary sewer mains.
 - _____2. Location of site for community sewage disposal plant.
- _____l. School sites, 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. (8" Minimum)
 - _____3. Invert elevations at manholes.
 - _____4. Manhole locations. (400' Maximum spacing)
- _____o. Water main layout, indicating:
 - _____1. Location.
 - _____2. Size. (6" Minimum)
 - _____3. Looped pattern where practicable.
 - _____4. Fire hydrants, spaced apart not more than 400 feet.
 - _____5. Valves spaced no more than 800 feet.

- ____20. (Continued)
 - ____p. Storm sewer layout, indicating:
 - ____1. Location.
 - ____2. Catch basins not more than 600 foot intervals.
 - ____3. Storm water is not carried across or around any intersection.
 - ____4. Surface water drainage pattern for individual lot and block.
 - ____q. Electric system layout.
 - ____r. Natural gas system layout.
 - ____s. Street light layout, indicating:
 - ____1. Locations and typical street light detail, or
 - ____2. Statement by subdivider that street lights will be installed in accordance with standards of the municipality.
- ____21. An outline of proposed covenants accompanies the plans, indicating the intention of the subdivider to have the covenants recorded with the final plat.
 - ____a. Protective against obstruction against drainage easements.
- ____22. Typical street cross-section showing base construction, surfacing, concrete curb and sidewalk in accordance with the land improvements code.
- ____23. Indication that sidewalks will be installed along all lot lines coincidental with street rights-of-way.
- ____24. Indication on drawing or by certificate that subdivider is aware of his responsibility for installation of street signs and for seeding and tree planting in all parkways.

COMPLETED BY: _____(Name)
 _____(Address)
 _____(Date)

REVIEWED BY: _____(Engineer)
 _____(Date)

CONSIDERED BY CITY COUNCIL ON: _____(Date)
 _____(Mayor)

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. Four (4) copies of engineering plans have been submitted.
- _____ 3. Plans conform to **Section 34-4-4**.
- _____ 4. A title sheet is included with each set of plans and includes:
 - _____ a. Name of subdivision and unit number.
 - _____ b. Type of work covered.
 - _____ c. Location map showing relation of area to be improved to existing street.
 - _____ d. An index of sheets.
 - _____ e. A summary of quantities.
 - _____ f. Name, address, and seal of registered engineer preparing the plans.
 - _____ g. Date of preparation and revisions, if any, is shown.
- _____ 5. Plan and profiles are on Federal Aid Sheets, Plate I or II, or equal.
 - _____ a. Horizontal scale is not less than 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 is 6-inch I.D.
 - _____ c. The plan conforms to the overall municipal plan for any trunk sewers traversing the subdivision.

- _____11. (Continued)
 - _____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 followings:
 - _____a. All properties in the subdivision are served.
 - _____b. The minimum size main is 6 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.

- _____14. (Continued)
 - _____b. (continued)
 - _____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. Minor or cul-de-sac street
 - _____3. Concrete curb and gutter
 - _____4. Concrete sidewalk
 - _____5. Standard manhole
 - _____6. Standard cover
 - _____7. Catch basin

- _____15. Street light plans are complete and include the following:
 - _____a. Pole locations
 - _____b. Spacing
 - _____c. Average maintained footcandle illumination (calculated).
 - _____1. type of base and pole.
 - _____2. bracket or arm.
 - _____3. luminaire, indicating type of lamp and wattage.
 - _____4. mounting height.
- _____16. Parkway improvement specifications are complete and include provisions for:
 - _____a. Removal of stumps and trees that cannot be saved, boulders and all other similar items.
 - _____b. Grading, installation of topsoil and seeding or sodding.
- _____17. Street signs are shown to be installed at all street intersections not previously marked.

COMPLETED BY: _____(Name)
 _____(Address)
 _____(Date)

REVIEWED BY: _____(Engineer)
 _____(Date)

CONSIDERED BY CITY COUNCIL ON: _____(Date)
 _____(Mayor)

34-6-3 SCHEDULE "C" - CHECKLIST FOR FINAL PLAT.

_____ (Name of Subdivision)
 _____ (Date of Submission)
 _____ (Due Date of Recommendation - 30 Days)

- (NOTE:** To properly execute this checklist, the subdivider or his engineer shall:
- (A) Insert the required information.
 - (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
 - (C) Denote those items which the subdivider considers **"not applicable"** to this particular subdivision by the abbreviation **"N.A."**.

_____1. Plat has been submitted within **six (6) months** after the approval of the engineering plan.

- _____2. Plat has been submitted within 3 years after the approval of the Preliminary Plan [unless an extension of time has been requested of and granted by the City Council].
- _____3. **One (1)** original drawing of the final plat has been submitted.
- _____4. **One (1)** transparency print of the final plat has been submitted.
- _____5. **Four (4) copies** of the final plat have been submitted.
- _____6. Plat is drawn with black or blue ink on heavy linen tracing cloth or polyester film.
- _____7. North direction is shown.
- _____8. Scale is shown (minimum 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 any County zoning requirements.
- _____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. City Council Certificate.
 - _____g. Superintendents of Water, Sewer and Streets Certificate.
- _____18. The following items have been submitted with the final plat:
 - _____a. Detailed specifications for all required land improvements not previously submitted and approved with the engineering plans.
 - _____b. A copy of the **State Sanitary Water Board Permit** for the sanitary sewer installation.
 - _____c. A copy of the **State Department of Public Health Approval** of the water main installation.
 - _____d. An affidavit by the subdivider acknowledging responsibility for the proper installation of all required land improvements.
 - _____e. A certified estimate of cost of all required land improvements prepared by a registered engineer.

_____f. A description of the bond or guarantee collateral intended to be submitted after contingent approval is granted by the municipality.

COMPLETED BY: _____(Name)
_____(Address)
_____(Date)

REVIEWED BY: _____(Engineer)
_____(Date)

CONSIDERED BY CITY COUNCIL ON: _____(Date)
_____(Mayor)

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 City Council may permit a developer to file in lieu of the surety bond called for in **Article IV, Division IV**, a cash bond guaranteeing that the improvements will be completed as follows:

(A) **Undertaking in Lieu of Completion Bond.**

WHEREAS, the statutes of the State of Illinois grant to a municipal corporation the right to require that a developer constructing certain improvements within that community guarantee the construction of such improvements by a completion bond or other security acceptable to the community; and **WHEREAS,** _____ desires to construct a residential development within the _____ of _____, and that said municipality is willing to accept an undertaking from a financial institution in the nature of an irrevocable commitment in lieu of such completion bond.

NOW, THEREFORE, are the following representations made by the owner and/or developer to the _____ of _____, as follows:

1. **THAT** _____ is the owner and/or developer of the property legally described in Clause 2 of this undertaking, and shall hereinafter be referred to as '**OWNER**'; and, **THAT** the City of _____ shall hereinafter be referred to as '**MUNICIPALITY**'.
2. **THAT THE OWNER** is the legal title holder of the following described property:

[LEGAL DESCRIPTION]

3. **THAT THE OWNER** shall be required to install and guarantee the installation of streets, sidewalks, street lights, sanitary sewers, storm sewers, water lines, recreational facilities (including structures), and common landscaping. In order to guarantee that such facilities shall be installed, the **OWNER** shall submit to the municipal engineer such specifications and estimated engineering costs as shall be required to meet with his approval. In aiding the municipal engineer in determining the amount of reasonably anticipated costs for the construction of such improvements, the **OWNER** may submit to the engineer signed contracts for the construction of such improvements. The municipal engineer, upon being satisfied that the design of the required improvements are in accordance with the ordinances of the **MUNICIPALITY** and in accordance with good engineering practices, shall estimate and certify an amount which shall represent **one hundred ten percent (110%)** of the reasonably estimated cost of completing the required improvements for which the **MUNICIPALITY** is requiring a completion guarantee.
4. **THAT** [except for the issuance of building permits for a reasonable number of models], the **OWNER** shall not be entitled to the issuance of [further] building permits until and unless said **OWNER** shall submit to the **MUNICIPALITY** an irrevocable financial commitment from a bank, savings and loan, or mortgage company approved by the **MUNICIPALITY** in the amount certified by the Municipal Engineer.
5. **THAT** the written irrevocable financial commitment shall be furnished by the **MUNICIPALITY** from a banking or lending institution in the form marked Appendix "A" and appended to this agreement.
6. **THAT THE OWNER** guarantees the workmanship of the public improvements to be installed upon the site for a period of **one (1) year** after their donation to the **MUNICIPALITY**. Upon final completion of the streets, sidewalks, street lights, sanitary sewers, storm sewers, and water mains, the **OWNER** shall execute a Bill of Sale for those items which are personal property. For a period of **one (1) year** after the granting of the Bill of Sale in the case of personal property, and the acceptance for maintenance in the case of streets and sidewalks, all necessary repairs to such facilities shall be the responsibility of the **OWNER**.

IN WITNESS WHEREOF

has hereunto set his hand and seal this _____ day of _____, 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 _____ of _____, Illinois:

streets; sidewalks; street lights; the portion of sanitary sewers, storm sewers, and water mains to become municipality-owned; recreational facilities (including a recreational building and a swimming pool and appurtenances thereof); and landscaping in common areas.

The development is legally described as follows:

[Legal Description]

We shall make payouts from this irrevocable commitment as follows:

If we have not been notified by the municipality of a default by the owner and/or developer, we shall disburse the funds for labor and materials furnished by contractors in accordance with the sworn statement on order of the owner, the submission of proper lien waivers from the contractors engaged in such work, and the certificate by the Municipal Engineer, _____ [his name] _____, that such work has been properly completed, however, that we shall withhold from each payment made under such sworn statement(s) or

order(s) an amount equal to **ten percent (10%)** thereof until all improvements have been completed except final surfacing of the streets and sidewalks, at which time the **ten percent (10%)** sum withheld shall be disbursed less a sum equal to **one hundred twenty-five percent (125%)** of the cost of the final surfacing of the streets, which sum shall be finally disbursed when the work has been completed and the requirements of certification and lien waivers as has been hereinabove set out have been met.

The required improvements shall be completed in accordance with the following schedule: **[Insert Schedule]**

If we receive a resolution of the corporate authorities of the municipality indicating that the owner and/or developer has failed to satisfactorily complete or carry on the work of the installation and construction of the required improvements, and such resolution indicates that the owner and/or developer has been notified that the municipality finds that a breach of the owner's and/or developer's obligations has occurred and have not been cured within a period of **thirty (30) days**, that in such case, we shall make payments for materials and labor to such contractor(s) or subcontractor(s) retained by the municipality who have completed the improvements in substantial accordance with the plans and specifications of the owner and/or developer; such payments shall be made upon the certification of the municipal engineer that the work has been completed and the submission of proper waiver of liens from the contractor(s) or subcontractor(s). The amount of the payouts shall be in accordance with the retention provisions as previously set out.

The irrevocable credit established by us shall be in force for a period of _____ years, and shall remain in effect without regard to any default in payments of sums owed by us by the owner and/or developer and without regard to other claims which we may have against the owner and/or developer. **Sixty (60) days** prior to the expiration of this irrevocable credit we shall notify the corporate authorities of the municipality, by registered letter, return receipt requested, of the impending expiration date. This commitment shall not terminate without such notice. If the work covered by this commitment has not been completed within the time set forth in this agreement, the municipality may, at its option, continue drawing funds as otherwise provided for an additional period of **one (1) year**. It is recognized that the municipality is according to the owner and/or developer the permission to proceed with the development project expressly upon the guarantee of the irrevocable nature of this commitment. It is further acknowledged that the consideration for this irrevocable commitment is provided by agreements between this financial institution and the developer. The sum of this credit shall, however, be reduced in the amount of disbursements made from time to time in accordance with the terms under which this credit is extended as set out above.

CHAPTER 36

TAXATION

ARTICLE I – SALES TAX (DELETED)

ARTICLE II - GENERAL TAXES

36-2-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the City be and the same is hereby established at a rate of **.25%**. (See **65 ILCS Sec. 5/8-3-1**)

36-2-2 **MAXIMUM RATES ESTABLISHED.** The maximum tax rates for the various purposes of the City of the full, fair, cash value as equalized or assessed by the Department of Revenue on all the taxable property within the City shall be as follows:

<u>FUND/PURPOSE</u>	<u>MAXIMUM RATE</u>
City Park	\$.20 per \$100.00
Emergency Service and Disaster Agency	\$.05 per \$100.00
Fire Protection	\$.075 per \$100.00
Garbage	\$.20 per \$100.00
IMRF	\$ NO LIMIT
Library	\$.15 per \$100.00
Playground	\$.0667 per \$100.00
Police Protection	\$.075 per \$100.00
Social Security	\$ NO LIMIT

ARTICLE III

SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX

36-3-1 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX ESTABLISHED. This Article III, formerly entitled "Telecommunications Infrastructure Maintenance Fee", was automatically repealed and replaced by a Simplified Municipal Telecommunications Tax pursuant to the "Simplified Municipal Telecommunications Tax Act" (**35 ILCS 636/5-1, et seq.**), effective **January 1, 2003**.

ARTICLE IV

TAXPAYERS' RIGHTS CODE

36-4-1 **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-4-2 **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.

36-4-3 **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 City's 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 Elmwood, 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.

36-4-4 **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.

36-4-5 **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.

36-4-6 **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.

36-4-7 **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) 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 **five percent (5%)** 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.

36-4-8 **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) The audit shall be conducted not less than **seven (7) days** and no more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agree to some other convenient time. 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, which date must nevertheless be within **seven (7) days** after the originally designated audit and during normal business hours. In the event taxpayer is unable to comply with the audit on the date in

question, the taxpayer may request an extension of time to have an audit conducted on another date within **seven (7) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

36-4-9 **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.

36-4-10 **HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-4-9**, 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.

36-4-11 **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 **five percent (5%)** 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.

36-4-12 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.

36-4-13 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) 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.

36-4-14 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.

36-4-15 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.

36-4-16 **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.

36-4-17 **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.

36-4-18 **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

[Ord. No. 2000-6; 12-05-00]

ARTICLE V – MUNICIPAL CANNABIS RETAILERS’ OCCUPATION TAX

36-5-1 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)**.

36-5-2 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. 2019-07; 09-17-19)

CHAPTER 38**UTILITIES****ARTICLE I – DEPARTMENT ADMINISTRATION**

38-1-1 **DEPARTMENT ESTABLISHED.** There shall be an executive department of the City known as the **Waterworks and Sewage Department**. It shall include the Water and Sewer Superintendent and employees of the Department. The designated office shall be the City Hall.

38-1-2 **WATER AND SEWER COMMITTEE.** The City Council standing committee on Water and Sewer shall exercise a general supervision over the affairs of the Departments. They shall ascertain the condition and needs thereof; and shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Departments.

38-1-3 **SUPERINTENDENT.** The Superintendent of the Water and Sewer Departments shall be subject to the supervision of the Water and Sewer Committee and shall be hereinafter be referred to as the **"Superintendent"**. The Superintendent shall be appointed by the Mayor, by and with the advice and consent of the City Council and shall hold office until his successor is appointed and qualified. He shall receive such salary as may be provided by the annual budget of the City Council at the time of his appointment.

38-1-4 **DUTIES OF THE SUPERINTENDENT.** The Superintendent shall exercise general management and control over his respective department.

(A) He shall supervise over and be responsible for the conduct and performance of all employees of the department as a Department Head in accordance with the Personnel Code, if any.

(B) He shall be responsible for the operation and maintenance of the City's water system and sewerage 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 OFFICE OF CITY WATER AND SEWERAGE COLLECTOR; TERM IN OFFICE; DUTIES THEREOF.

(A) The Mayor, with the approval of a majority of the City Council, shall appoint by proper resolution, any competent and reputable adult person, whether an elective official of the City or not, as City Water and Sewerage Collector for the City, and shall pay said Collector for such services and also for collecting and accounting for other special taxes, such sum as shall be established by resolution adopted, from time to time, by the Mayor and City Council.

(B) Each such appointment shall be for a period of **four (4) years**, beginning April of 1965, or in the event of a vacancy in office, for the unexpired period until the date of the next regular appointment.

(C) It is hereby made the duty of the City Water and Sewer Collector to maintain a complete and accurate list of all premises and properties receiving utility services, to render bills for service and all charges and rates in connection therewith and to collect all moneys due thereof.

38-1-6 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.

38-1-7 REVENUES. All revenues and moneys derived from the operation of the water and sewer systems shall be deposited in the Combined Water and Sewage Fund. All such revenues and moneys shall be held by the 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 systems as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewage Fund of the City". The Treasurer shall administer such fund in every respect in the manner provided by the **Illinois Compiled Statutes, Chapter 65. (See Chapter I; Art. II)**

38-1-8 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 wastewater facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the wastewater plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.
- (F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

38-1-9 NOTICE OF RATES. A copy of this Article, properly certified by the City Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the water and sewer systems of the City on their properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

38-1-10 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.

38-1-11 APPEALS. The method for computation of rates and service charges established for user charges in Article IV 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.

ARTICLE II - RATES AND REGULATIONS

38-2-1 PREAMBLE; USER DEFINED. Within the meaning and intent of this Chapter, each of the following which is supplied with service by the combined Waterworks and Sewerage System of the City, either both water and sewerage service or either of them, is a separate user of said combined system, namely: Every separate professional or business office; store; place of business; manufacturing establishment; lodge; club; hotel; hospital; public building; private dwelling house; private flat; private apartment; private lodging room not included within any other classification of user set forth in this paragraph; boarding house; rooming house; or church; contained in any building or situated or located upon any lot, piece or parcel of ground within or outside the corporate limits of said City.

38-2-2 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"Basic User Charges" shall mean the basic assessment levied on all users of the public sewer system and charges levied on users of treatment works for the cost of operation, maintenance and replacement.

"Combined Sewer" shall mean a sewer which is designated to receive wastewater, storm surface and groundwater drainage.

"Commercial User" shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

"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.

"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.

"Industrial Users" shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

"Institutional/Governmental User" shall include schools, churches, penal institutions and users associated with Federal, State and local governments.

"Multi-User" shall mean apartments, permanent multi-family dwellings, commercial establishments, industrial establishments and other structures usable by more than **one (1)** individual or family as separate living quarters or by more than **one (1)** business or by **one (1)** or more individuals or family or families as separate living quarters with **one (1)** or more business or businesses in the same structure. By definition, "multi-user" does not include retirement homes or rest homes nor does it include any commercial establishment that does not use water or sewer service for its employees or patrons in the commercial portion of said premises. **(Ord. No. 94-2; 06-13-94)**

"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.

"Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

"Residential User" shall mean all dwelling units such as houses, mobile homes, apartments, permanent multi-family dwellings.

"Sewerage Fund" is the principal accounting designation for all revenues received in the operation of the sewerage system.

"Single User" shall mean a single person or family or a single business in a building and on property usable by not more than **one (1) family** or by not more than **one (1)** commercial user, and a single user shall include retirement homes and rest homes. **(Ord. No. 94-2; 06-13-94)**

"Surcharge" shall mean the assessment on addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than the concentration values.

"Useful Life" shall mean the estimated period during which the collection system and/or treatment works will be operated.

"User Class" shall mean the type of user, "residential", "institutional/government", "commercial", or "industrial" as defined herein.

"Wastewater Service Charge" shall be the charge per quarter or month levied on all users of the wastewater facilities.

38-2-3 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 sewerage system, and every person, company or corporation, hereinafter also called a "**customer**", who accepts and uses City water and sewer services shall be held to have consented to be bound thereby.

(B) **Not Liable for Interrupted Service.** The Department shall endeavor at all times to provide a regular and uninterrupted supply of service; however, in case the supply of service shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants or agents, the Department shall not be liable therefor.

(C) **Using Services Without Paying.** Any person using utility services from the City without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances, or bypassing any meter, shall be guilty of violating this Code, and upon conviction, shall be fined a sum as provided in **Section 1-1-20** of the Revised Code.

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner limiting the use or availability of any meter or any property of the waterworks system and sewerage 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 advanced payment as may be necessary to satisfy the unpaid obligation shall be retained by the City and credited to the appropriate account.

(F) **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the following billing shall include the charges for services used during the unbilled month.

(G) **Request to Discontinue Service.** Services shall have been deemed to have been supplied to any property connected to the Water and Sewer 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 the rates and charges hereby established for the use and service of the Waterworks System and the Sewerage System of said City shall be paid monthly on a schedule to be prescribed by the City Council of the City.
- (2) All bills for service shall be rendered as of the **first (1st) day** of the month succeeding the period for which the service is billed, and shall be due on the same date.
 - (a) If any such bill remains unpaid at the close of business on the **fifteenth (15th) day** of the month when due, a penalty of **ten percent (10%)** of the face amount of the bill shall be added to the amount due and become a part of the charge for the serviced supplied.
 - (b) If the charges for such services are not paid within **fifteen (15) days**, such services shall be discontinued without further notice and shall not be reinstated until all claims are settled.

(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 **forty-five (45) 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.

(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.

38-2-4 APPLICATION FOR WATER AND/OR SANITARY SEWER SERVICE; ESTABLISHMENT OF CREDIT.

(A) All persons desiring water and/or sanitary sewer service shall make written application therefor at the office of the City Clerk, stating the name of the owner of the premises, the name of the occupant of the premises, the street address or lot description where service is requested and the mailing address.

(B) All persons making application for water and/or sanitary sewer service shall establish credit by:

- (1) Proof of ownership of premises serviced, or
- (2) If applicant is not the owner of said premises, a written guarantee by the owner of said premises, for the faithful payment of all such service charges, or
- (3) A deposit with the City Clerk of a sum equal to the estimated quarterly service charge for the premises applied for.

(C) No new connection shall be made except on application of the legal owner or owners of the premises as shown by the County records. However, a contract purchaser shall be deemed the record owner of the premises upon exhibition of his contract, providing he has taken possession of the premises.

(D) All written applications requesting water service connection for new construction shall be accompanied by a water service connection fee payable to the City in the amount of **Three Hundred Dollars (\$300.00)**, and all written applications requesting sanitary sewer service connection for new construction shall be accompanied by a sanitary sewer service connection fee payable to the City in the amount of **Four Hundred Dollars (\$400.00)**. (Ord. No. 08-1; 02-19-08)

38-2-5 CONNECTION AND SHUT-OFF CHARGES FOR WATER SERVICE.

(A) Where service lines are connected there shall be no collection charge or shut-off charge for the old customer or the new customer at the same premises.

(B) There shall be no collection charge to a consumer for a shut-off and turn-on made at the request of the consumer during the City's regular business hours of **8:30 A.M.** to **11:30 A.M.** and **12:30 P.M.** to **4:30 P.M.**, Monday through Friday, excluding legal holidays, and a charge of **Forty-Five Dollars (\$45.00)** at any other time.

(C) This Section shall not be construed as placing any responsibility upon the City for draining the pipes or plumbing devices.

(D) Special connection charges for areas to which service is extended by special petition shall be charged a connection charge according to the agreement in such case.

(E) If service has been disconnected for non-payment or for any other violation of the City Code and reconnection has been requested by the same consumer, in addition to paying the fees set forth in **Section 38-2-5(B)**, if any, then the consumer shall also pay the expense attendant upon any lien filed by the City prior to reconnection.

(Ord. No. 2020-01; 01-07-20)

38-2-6 **WATER METER TESTING FEES.** All persons desiring a water meter tested shall pay **Ten Dollars (\$10.00)** in advance, for such test, which sum shall be refunded if the meter is found to be faulty.

38-2-7 **LIABILITY FOR CHARGES.** The owner of any lot, parcel of land or premises and the user of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises, and all services are rendered to the premises by the City only on the condition that such owner, occupant and user shall be jointly and severally liable therefor to the City.

38-2-8 **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 City Collector 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.

38-2-9 **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.

38-2-10 **POWERS AND DUTIES OF CITY COUNCIL.**

(A) The City Council by resolution, may make special contracts for a limited time for construction contractors or other persons desiring to take unmetered quantities of water for special purposes; and, by resolution or ordinance, may make special contracts with other municipalities, districts, persons or corporations for the supplying of water on a wholesale basis or for fire protection purposes.

(B) The City Council hereby agrees to pay into the waterworks fund annually from the corporate fund, an amount equal to **Fifty Dollars (\$50.00)** for each water hydrant for service rendered to said City by the Waterworks System.

(C) The City Council hereby agrees to notify the users of the Wastewater Treatment Services annually, in conjunction with a regular bill, of the Wastewater Service Charge and that portion of the Basic User Charges which are attributable to the Wastewater Treatment operation, maintenance and replacement costs.

(D) The City reserves the right to make such reasonable changes in charges and conditions herein established and to establish further rules and regulations from time to time as may be found expedient for the operation of said system.

- (1) The adequacy of the wastewater service charge shall be reviewed, not less often than annually, by Certified Public Accountants for the City in their annual audit report.
- (2) The wastewater service charge shall be revised periodically to reflect a change in operation and maintenance costs including replacement costs.

38-2-11 WATER SERVICE CHARGES (ONLY). The following monthly charges are hereby established for and shall be allocated to each user for the use and service of the Waterworks System:

First	1,000 gallons	\$17.13 per month
Next	2,000 gallons	\$4.46 per 1,000 gallons
Next	3,000 gallons	\$4.23 per 1,000 gallons
Next	5,000 gallons	\$3.99 per 1,000 gallons
Next	9,000 gallons	\$3.30 per 1,000 gallons
Over	20,000 gallons	\$2.12 per 1,000 gallons (all per month)

For service outside the corporate limits, the monthly bill shall be increased by **one hundred percent (100%)** of the above rates. For water service to each multi-user, where more than **one (1)** separate living quarter or more than **one (1)** separate business, or **one (1)** or more separate living quarters and **one (1)** or more separate businesses are served through **one (1) water meter**, there shall be an additional water service charge at the rate of **Four Dollars (\$4.00)** per month multiplied by the number of separate users served through said meter imposed on the multi-user. **(Ord. No. 2022-01; 01-18-22)**

38-2-12 WASTEWATER SERVICE CHARGES. The following charges are hereby established for the use and service of the Sewerage System:

(A) **Computation of Wastewater Service Charge.** The wastewater service charge shall be computed by the following formula:

- (1) $CW = (VU-X)CU + CM + CD + CS$; Where:
- (a) CW = amount of waste service charge (\$) per billing period;
 - (b) VU = Wastewater volume for the billing period;
 - (c) X = Allowable consumption in gallons for the minimum charge (i.e., 1,000 gallons/month);
 - (d) CU = Basic Rate Charge for operation, maintenance and replacement (\$2.78/1,000 gallons);
 - (e) CM = Basic Minimum Charge for operation, maintenance and replacement (\$15.19/month);
 - (f) CD = Debt Service Charge (\$0/month);
 - (g) CS = Amount of Surcharge.

(Ord. No. 2022-01; 01-18-22)

(B) **Basis for Wastewater Service Charges.** The wastewater service charge for the use of and for service supplied by the wastewater facilities of the City shall consist of Basic User Charges for operation, maintenance and replacement, a Debt Service Charge and applicable surcharges.

- (1) **Basic User Charges.** There shall be and there is hereby established a Basic Minimum Charge and a Basic Rate Charge for the use of and for service supplied by the wastewater facilities of the City.
- (a) A Basic Minimum Charge of **Fifteen Dollars Nineteen Cents (\$15.19)** per month shall be applied to all users whose water consumption does not exceed **one thousand (1,000) gallons** per month; and
 - (b) A Basic Rate Charge of **Two Dollars Seventy-Eight Cents (\$2.78)** per **one thousand (1,000) gallons** shall be applied to all users for water consumption in excess of **one thousand (1,000) gallons** per month.
 - (c) The Basic User Charges shall be based on water usage as recorded by water meters and/or sewerage meters for wastes having the following normal domestic concentrations:
 - (i) A **five (5) day, Twenty degree Centigrade (20°C)** biochemical oxygen demand (BOD) of **200 mg/l**;
 - (ii) A suspended solids (SS) content of **260 mg/l**.
 - (d) The Basic User Charges shall consist of operation, maintenance and replacement costs (O, M, and R) which shall be computed as follows:
 - (i) Estimated wastewater volume, pounds of SS and pounds of BOD to be treated;
 - (ii) Estimate and projected annual revenue required to operate and maintain the wastewater facilities including a replacement fund for the year;

- (iii) Proportion the estimated O, M and R costs to each user class by volume, suspended solids and BOD;
 - (iv) Proportion the estimated O, M and R costs to wastewater facility categories by volume, SS and BOD;
 - (v) Compute costs per **one thousand (1,000) gallons** for normal sewerage strength; and,
 - (vi) Compute surcharge costs per pound per **one thousand (1,000) gallons** in excess of normal sewage strength for BOD and SS.
- (e) All non-metered residential users of the wastewater facilities shall pay a minimum flat rate charge of **Twenty-Four Dollars Eighty-Eight Cents (\$24.88)** per month which will allow a maximum of **four thousand two hundred thirty-three (4,233) gallons** per month. For non-metered residential wastewater service outside the corporate limits, the minimum flat rate charge shall be **Twenty-Six Dollars Eighty-Three Cents (\$26.83)** per month which will allow a maximum of **four thousand two hundred thirty-three (4,233) gallons** per month. However, in the event use of the wastewater facilities by any non-metered residential user is determined by the Superintendent to be in excess of **four thousand two hundred thirty-three (4,233) gallons** per month, the Superintendent may require such flat rate user to install metering devices on the water supply or sewer main to ensure the amount of service supplied.
- (2) **Debt Service Charge. (Reserved).**
- (3) **Surcharge.** A Surcharge will be levied to all users whose waste waters exceed the normal domestic concentrations of BOD (**200 mg/l**) and SS (**260 mg/l**).
- (a) The surcharge will be based on water usage as recorded by water meters and/or sewerage meters for all wastes which exceed the **200 mg/l** and **260 mg/l** concentration of BOD and SS respectively;
 - (b) **Surcharge Rate.** The rates of surcharges for BOD and SS shall be as follows:
 - (i) per lb. of BOD: \$0.34;
 - (ii) per lb. of SS: \$0.28.

- (c) **Determination of Concentration of Wastes.** The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the Superintendent and shall be binding as a basis for surcharges.
 - (d) **Computation of Surcharge.** To compute the applicable surcharge for each user to be charged with such surcharge, the Superintendent shall multiply the cost per pound of BOD and/or SS by the excess concentration of such wastes as determined by the procedures set forth in **Section 38-2-12(B) subparagraph (3)(c)** herein.
- (4) **Sewerage Service Charges to Multi-Users.** For sewerage service to each multi-user, where more than **one (1)** separate user is served through **one (1)** water meter, there shall be an additional sewerage service charge at the rate of **Four Dollars (\$4.00)** per month multiplied by the number of separate users served through said meter imposed on the multi-user.

(Ord. No. 2022-01; 01-18-22)

(C) **Measurement of Flow.** The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of **one hundred (100) gallons.**

- (1) If the user discharging wastes into the public sewers procures any part, or all, of his water from sources other than the Public Waterworks System, all or a part of which is discharged into the public sewers, the user may install and maintain, at his expense, water meters of a type approved by the Superintendent for the purpose of determining the volume of water obtained from said other sources. Unless water meters or wastewater meters are installed, consumption shall be estimated as **twelve thousand seven hundred (12,700) gallons** per quarter for those sewer system users who are not connected to the Public Water System.
- (2) Devices for measuring the volume of waste discharged may be required by the Superintendent if these volumes cannot otherwise be determined from the metered water consumption records.
- (3) Metering devices for determining the volume of waste shall be installed, owned and maintained by the user. Following approval and installation, such meters may not be removed, unless service is cancelled, without the consent of the Superintendent.

(D) **Basis for Total Water and Wastewater Service Charges.**

The Wastewater Service charges based on all water usage for any purpose of said user shall be charged and allocated to each user connected to the sanitary sewer system in addition to the water service charges, except on the following conditions:

- (1) The user may install at the user's expense, a separate water meter obtained from the City at the City's usual and customary charge, to be connected to one water line, the water from which will be used solely to water said user's lawn and/or to fill said user's swimming pool.
- (2) In the event the user installs a separate meter to determine the amount of water used for watering user's lawn and/or filling the user's swimming pool, only the water service charges (and not the Wastewater Service Charges) shall apply to the water recorded as flowing through such meter and used for such purposes.
- (3) The Water Service charges for the water flowing through the second meter and to be used solely for watering the user's lawn and/or filling the user's swimming pool, shall be calculated separately from the water usage recorded as flowing through the user's other meter and will not be combined with usage recorded as flowing through the other meter. **(Ord. No. 94-1; 05-04-94)**

ARTICLE III - WATER SYSTEM**DIVISION I - GENERAL REGULATIONS**

38-3-1 **ILLINOIS PLUMBING CODE.** All water taps and service connections to the mains of the waterworks system shall conform to the regulations of this Code and the Illinois Plumbing Code.

38-3-2 **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.

38-3-3 **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.

38-3-4 **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.

38-3-5 **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 will not be liable for nor shall any claim be made against it for damages or injury caused by reason of the breaking of any main, service, pipe, apparatus or appurtenance connected with the Waterworks System or for any interruption of the supply of water by reason of the breaking of machinery or by reason of stoppages, alterations or renewals.

38-3-6 RESALE. No water shall be resold or distributed by the recipient or consumer thereof from the City supply to any premises other than that for which application has been made and the meter installed, except in cases of emergency.

38-3-7 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.

38-3-8 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.

38-3-9 WATER FOR BUILDING OR CONSTRUCTION PURPOSES. Applicants desiring to use water from the City Waterworks System for building or construction purposes shall make application therefor to the Superintendent of the Water and Sewer Department on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent of the Water and Sewer Department.

38-3-10 **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.

38-3-11 **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.

38-3-12 **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.

38-3-13 **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.

38-3-14 **EASEMENTS.** The consumer shall give such easements and rights-of-way as necessary to the City and allow access for the purpose of construction, repair, maintenance, meter reading, relocation or expansion of the water system. The necessity shall be determined by the City Council.

38-3-15 **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.

38-3-16 **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.

38-3-17 **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.

38-3-18 **INSTALLING AND MAINTAINING SERVICE LINES.** The user shall be responsible for installation and maintenance of service lines between the curblineline and the residence or business. Such service lines must be at least **three-fourths inch (3/4")** 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.

38-3-19 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.

DIVISION II - CROSS-CONNECTION ADMINISTRATION AND CONTROL

38-3-21 **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.

38-3-22 **APPLICATION.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

38-3-23 **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, pollutorial, 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.

38-3-24 WATER SYSTEM.

(A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent of Water up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

38-3-25 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.

(D) **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.

38-2-26 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 38-3-29(B)** below for a period of at least **five (5) years**. The Superintendent of Water may require the consumer to submit a cross-connection inspection report to the City to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

38-3-27 **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 Superintendent shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-3-28 **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 Superintendent 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 Superintendent 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 Superintendent, be evidence of the presence of improper connections as provided in this Chapter.

38-3-29 **SURVEY AND INVESTIGATIONS.**

(A) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with Ill. Comp. Stat., Ch. 225, Sec. 320/3.

(B) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

- (1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.
- (2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.
- (3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.

- (4) Testing and Records
- (a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 - (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with Ill. Comp. Stat., Ch. 415, Sec. 5/4(e).
 - (c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
 - (d) A maintenance log shall be maintained and include:
 - 1. date of each test;
 - 2. name and approval number of person performing the test;
 - 3. test results;
 - 4. repairs or servicing required;
 - 5. repairs and date completed; and
 - 6. servicing performed and date completed.

38-3-30 WHERE PROTECTION IS REQUIRED.

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

- (1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent of Water and the source is approved by the Illinois Environmental Protection Agency.
- (2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent of Water.
- (3) Premises having internal cross-connections that, in the judgment of the Superintendent of Water, are not correctable or intricate plumbing arrangements it make which impractical to determine whether or not cross-connections exist.

- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent of Water determines that no actual or potential hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.
- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

38-3-31 **TYPE OF PROTECTION REQUIRED.**

(A) The type of protection required under **Section 38-3-30** 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 38-3-30** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention connected to the public water supply when:

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

- (1) The fire safety system contains antifreeze, fire retardant or other chemicals;
- (2) water is pumped into the system from another source; or
- (3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
- (4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

38-3-32 BACKFLOW PREVENTION DEVICES.

(A) **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.

(B) 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.

(C) 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.

38-3-33 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 38-3-33(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

38-3-34 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.

38-3-35 **VIOLATIONS, RECONNECTION FEES AND PENALTIES.**

(A) The Superintendent is hereby authorized and directed to 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. Immediate disconnection with verbal notice can be effected when the Superintendent 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 Superintendent or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(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 until a reconnection fee is paid to the City of **Five Hundred Dollars (\$500.00)**.

(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) 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.

(E) 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.

38-3-36 **CONTAMINATION CLEAN-UP COST.** 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 - 38-3-52 **RESERVED.**

DIVISION III - EXTENSION OF MAINS

38-3-53 **PERMIT.** Any person desiring to extend the existing City water main beyond its present location (hereinafter referred to as "Developer") within the City limits shall first secure a permit from the Clerk to extend such water main.

38-3-54 **COMPLIANCE.** Any such extension shall comply with all rules and regulations prescribed by this Chapter.

38-3-55 **SIZE AND TYPE.** Any such extension of the water main, proposed to serve **one (1)** or more uses, shall be not less than **six (6) inches** in diameter and shall be constructed with galvanized steel or rigid plastic water main pipe and fittings, capable of withstanding a pressure test of not less than **one hundred sixty (160) pounds per square inch**; any standard heavy duty galvanized steel or heavy duty plastic water pipe may be used for laterals off the water main to connection each separate user. The City reserves the right to determine and specify a different 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.

38-3-56 **METERS.** Any such extension of the water main shall be metered at a point or points at the discretion of and as provided, from time to time, by action of the City Council.

38-3-57 **PLATS.** The Developer shall file, with the City Clerk, a detailed plat of the proposed extension showing the size and location of the extension of the water main and all connections thereto.

38-3-58 **EASEMENTS.** In the event the Developer desires to extend such water main across property owned by any other person or party, the Developer shall first secure and record with the Peoria County Recorder, without cost to the City, written permanent rights-of-way or easements to construct and maintain such water main extension, which easements shall be filed with the City Clerk and approved by the City Council by proper resolution. In the event the Developer desires to extend such water main across property owned or occupied by any public entity, the Developer shall secure proper written permission to construct and maintain such extension of the water system, from the proper public authorities and shall file the same with the City Clerk.

38-3-59 **COSTS.** Generally, any such extension of the water main shall be constructed, tested and hooked up to the existing City water main at the exclusive expense of the Developer. However, at the sole discretion of the City Council, the City Council may 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, and if the extension is economically feasible, then the City may install and pay all or part of 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 permit by the City. The City shall not pay for any extensions to an undeveloped area, such as a subdivision being developed, unless there are sufficient existing residents or businesses to make the extension economically feasible. **(See Chapter 34 for Design Requirements)**

38-3-60 **TITLE.** The Developer or the individual owners in title to the real estate benefited from such extension of the water service, shall, after the water service extension is constructed, continuously maintain such water system extension, at their expense, until such water system extension is properly dedicated to the City for public use, and such dedication is accepted by formal written resolution adopted by the City Council. This Section shall not be construed to require the City Council to accept or to maintain such dedicated water system extension. If, however, the City elects to pay all or part of the cost of an extension as provided in **Section 38-3-59**, then the City may require as a condition to its election that title to all main extensions 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 developer. However, the City reserves the right to consider extensions made at the applicant's expense and without written agreement as 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.

38-3-61 **MAINTENANCE AND REPLACEMENT.** The City, at its own expense, shall maintain and when necessary, replace the City-owned mains used to supply water to its customers, and if adequate service requires the reconstruction or replacement of such mains, the mains shall be reconstructed or replaced by the City at its expense.

ARTICLE IV - SEWER 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 Sewage Works 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 sewers 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.

"SEWER TYPES AND APPURTENANCES"

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five feet (5') (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive wastewater, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storms, surface and groundwater drainage.

(H) **"Sewerage"** shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

(I) **"Storm Sewer" or "Storm Drain"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(J) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewers.

"TREATMENT":

(A) **"Pretreatment"** shall mean the treatment of wastewater from sources before introduction into the wastewater treatment works.

(B) **"Wastewater Treatment Works"** shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "pollution control plant" or "sewage treatment plant" or "sewage works".

"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) **"Sewerage Fund"** is the principal accounting designation for all revenues received in the operation of the sewerage 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) **"Wastewater Service Charge"** shall be the charge per quarter or month levied on all users of the Wastewater 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 wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.
- (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 an industrial user the publicly owned treatment works that:
- (1) Has a flow of 50,000 gallons or more per average work day; or
 - (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
 - (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
 - (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.
- (G) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or wastewater constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.
- (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 sewers, with no particle greater than **one half inch (1/2") (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "wastewater".

(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 sewers and wastewater treatment facilities provided.

(P) **"Wastewater"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

38-4-2 - 38-4-3 RESERVED.

DIVISION II**USE OF PUBLIC SEWERS REQUIRED**

38-4-4 **DEPOSIT OF WASTES.** 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 feet (200')** of the nearest property line and adequate to handle the additional connection, where determined to be required.

38-4-8 - 38-4-20 **RESERVED.**

DIVISION III

BUILDING SEWERS 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/CONNECTIONS.

(A) There shall be **two (2)** classes of building sewer permits as follows:

- (1) Residential wastewater service.
- (2) Service to Commercial or Institutional establishments or industrial wastewater service.

(B) In either case, the owner or his agent shall make applications on a special form furnished by the City. **(See Appendix)** The fee per connection shall be paid to the City at the time the application is filed pursuant to paragraph (D) of this Section.

(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 wastewater constituents, characteristics and type of activity.

(D) A permit and inspection fee of **Fifty Dollars (\$50.00)** for a residential building sewer permit and **One Hundred Dollars (\$100.00)** for a commercial or industrial building sewer permit shall be paid to the City Clerk at the time the application is filed. **(Ord. No. 80-1; 02-05-80)**

38-4-24 COSTS BORNE BY OWNER; INDEMNIFICATION. 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 ONE BUILDING CONNECTION ON INDEPENDENT BUILDING SEWER; PERMIT REQUIRED FOR ADDITIONAL CONNECTIONS. No more than **one (1)** building shall be connected on any independent building sewer unless the Superintendent shall determine that **two (2)** or more buildings can be so connected without manifest prejudice to such independent building sewer or to the system as a whole; and in case permission shall be granted for the connection of **two (2)** or more buildings on the same independent building sewer, the owners of all such buildings shall file a statement in the County Recorder's office consenting to the joint use of the sewer and specifying the manner in which any expense of repair to such sewer shall be borne by the respective owners. **(Ord. No. 247; 08-06-57)**

38-4-26 RESERVED.

38-4-27 OLD BUILDING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

38-4-28 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 inches (4")**. If **six inch (6") diameter pipe** is used, the slope shall not be less than **one-eighth (1/8") inch** per foot. If **four inch (4") or five inch (5") 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 sewers shall be constructed of materials approved by the City. Generally all building sewers shall be constructed of the following materials:

- (A) Cast or ductile iron pipe
- (B) ABS solid wall plastic pipe (6" diameter maximum)
- (C) PVC solid wall plastic pipe (6" diameter maximum) SDR-35

All pipe joints must be gaslight 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.

38-4-29 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.

38-4-30 ELEVATION/LIFT. 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.

38-4-31 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.

38-4-32 CONNECTIONS TO SEWER 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 Y branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing Y. In the event of absence of the Y, 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 Y saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the Y branch is larger than **four (4) inches** in diameter. The entire sewer main in the location of the Y and the Y 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 Y branch fitting to allow the Y 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 sewers crossing any street, or traveled alley shall be backfilled with granular 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.

38-4-33 CAPACITY OF SEWER. A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-4-34 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 is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City or its representative.

At any time after the installation of the building sewer, the City may test the building sewer for violation of this ordinance.

38-4-35 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.

38-4-36 PUBLIC SEWER 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.

38-4-37 EXCAVATION: 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.

38-4-38 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.

Any experienced sewer builder or drain layer may furnish to the City a continuing surety bond in the sum of **Five Thousand Dollars (\$5,000.00)** to apply to all building sewer permits issued to such builder or to the principals thereof for a term of **one (1) year** from the date thereof subject to renewal from year to year, and such continuing bond may be accepted in behalf of the City in lieu of a special bond to cover each permit issued during the term of the bond.

Home owners wishing to install their own building services are not required to post a bond. Any person performing building sewer work for hire shall post the bond.

38-4-39 UNLAWFUL DISCHARGES. All disposal by any person into the sewer system is unlawful except those ordinances in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-40 - 38-4-41 RESERVED.

DIVISION IV - EXTENSION OF COLLECTING SEWERS

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.

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 sewers 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 sewers 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 sewers 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.

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 water-tightness shall be ensured by using bolt down covers.

38-4-47 **EASEMENTS REQUIRED.** In the event the Developer desires to extend such sanitary sewer main across property owned by any other person or property, the Developer shall first secure and record without cost to the City, with the County Recorder of Deeds, written permanent or right-of-way easements to construct and maintain such sewer main extension, which easements shall be filed with the City Clerk and approved by the City Council by proper resolution.

38-4-48 **EASEMENTS OVER PUBLIC PROPERTY.** In the event the Developer desires to extend such sanitary sewer main across property owned or occupied by any public entity, the Developer shall secure proper written permission to construct and maintain such extension of the sanitary sewer system from the proper public authorities and shall file the same with the City Clerk.

38-4-49 **EXPENSE.** Any such extension of the sanitary sewer main shall be constructed, tested and hooked up to existing sanitary sewer main at the exclusive expense of the Developer.

38-4-50 **TITLE, MAINTENANCE, DEDICATION AND ACCEPTANCE.** The Developer or the individual owners in title to the real estate benefited from such sanitary sewer service extension shall, after the sanitary sewer extension is constructed, continuously maintain such sanitary sewer service extension until such sanitary sewer system extension is properly dedicated to the City for public use and such dedication is accepted by formal written resolution adopted by the City Council. This Article shall not be construed to require the City Council to accept or to maintain such dedicated sanitary sewer system extension. **(Ord. No. 77-6; 10-04-77)**

38-4-51 - 38-4-52 **RESERVED.**

DIVISION V**USE OF PUBLIC WASTEWATER FACILITIES**

38-4-53 **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.

38-4-54 **STORM WATER.** Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the City, to a storm sewer, or natural outlet.

38-4-55 **REGULATIONS OF WASTES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solids, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-4-56 **HARMFUL EFFECTS OF CERTAIN MATERIALS.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows

and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than **One Hundred Fifty degrees Fahrenheit (150°F), (65°C)**.

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of **One Hundred (100) mg/l** or containing substances which may solidify or become viscous at temperatures between **Thirty-Two (32) and One Hundred Fifty degrees Fahrenheit (150°F), (0 and 65°C)**.

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of **three-fourths (3/4) horsepower (0.76 hp metric)** or greater shall be subject to the review and approval of the 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 Hq** 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.

(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.

38-4-57 HARMFUL WASTES; APPROVAL.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in **Section 38-4-35** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge; and/or;
- (3) require control over the quantities and rates for discharge; and/or;
- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-4-42.**

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, articles, and laws.

(C) The owner of the pretreatment or equalization facilities shall obtain construction and operating permits from the Illinois Environmental Protection Agency prior to the issuance of final approval by the Superintendent.

(D) Where multiple process or discharges are present or contemplated at an industry, the City shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all wastewater be discharged through a single control manhole or structure with appurtenances described herein.

38-4-58 GREASE AND OIL INTERCEPTORS. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be

required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

38-4-59 **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.

38-4-60 **INDUSTRIAL WASTES CONTROL MANHOLE.** 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.

38-4-61 **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 wastewater 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.

38-4-62 **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.)

38-4-63 **SPECIAL ARRANGEMENTS.** No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System.

38-4-64 - 38-4-69 **RESERVED.**

DIVISION VI
INSPECTIONS

38-4-70 **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.

38-4-71 **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 sewers or waterway or facilities for waste treatment.

38-4-72 **LIABILITY OF CITY.** While performing the necessary work on private properties referred to in **Section 38-4-71** 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 38-4-61**.

38-4-73 **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.

38-4-74 - 38-4-75 **RESERVED.**

DIVISION VII - PENALTIES

38-4-76 **PENALTY.** Any person found to be violating any provision of this Code except **Section 38-4-70** 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.

38-4-77 **CONTINUED VIOLATIONS.** Any person who shall continue any violation beyond the time limit provided for in **Section 38-4-76** 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.

38-4-78 **LIABILITY TO CITY.** Any person violating any of the provisions of this Chapter shall become liable to the City by reason of such violation for any expense, loss or damage, including reasonable attorney's fees for collecting such expense, loss or damage, occasioned to the City by reason of such violation.

38-4-79 **DISCONNECTION OF SEWERS.** The Superintendent shall have the power, authority, and discretion to disconnect the building sewer from the sanitary sewer of any person or party who:

(A) shall continue any violation of this Article beyond the time limit provided in this Article, and/or

(B) either individually or by or through their agents or tenants, shall refuse to permit the Superintendent or any other duly authorized employees of the City bearing proper credentials and identification, to enter upon their property for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Article. **(Ord. No. 77-6; 10-04-77)**

PRIVATE SEWAGE DISPOSAL APPLICATION

A. The undersigned, being the _____ of the property located _____ (owner, owner's agent) at _____ (Number) _____ (Street) does hereby request a permit to install 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 feet (200') [61 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 City 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: _____, _____ SIGNED: _____ (APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$ _____ (Inspection Fee Paid) DATE: _____, _____
\$ _____ (Connection Fee Paid) SIGNED: _____ (CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, _____ SIGNED: _____ (CITY CLERK)

RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to install and connect a building
(Number)(Street)
sewer to serve the _____ at said location.
(residence, commercial building, etc.)

1. The following indicated fixtures will be connected to the proposed building sewer:

<u>NUMBER</u>	<u>FIXTURE</u>	<u>NUMBER</u>	<u>FIXTURE</u>
_____	Kitchen Sinks	_____	Water Closets
_____	Lavatories	_____	Bathtubs
_____	Laundry Tubs	_____	Showers
_____	Urinals	_____	Garbage Grinders

Specify Other Fixtures: _____

- 2. The maximum number of persons who will use the above fixtures is _____.
- 3. The name and address of the person or firm who will perform the proposed work is _____
- 4. Plans and specifications for the proposed building sewer are attached hereunto as **Exhibit "A"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

- 1. To accept and abide by all provisions of the **City Code**, and of all other pertinent ordinances and codes that may be adopted in the future.
- 2. To maintain the building sewer at no expense to the City.
- 3. To notify the City when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: _____, _____ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$ _____ (Inspection Fee Paid) DATE: _____, _____
\$ _____ (Connection Fee Paid) SIGNED: _____
(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, _____ SIGNED: _____
(CITY CLERK)

INDUSTRIAL SEWER CONNECTION APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to _____
(Number)(Street) (install, use)
an industrial sewer connection serving the _____ which company is engaged in
_____ at said location.

- 1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A"**.
- 2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B"**.
- 3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C"**.
- 4. The name and address of the person or firm who will perform the work covered by this permit is _____

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

- 1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the City.
- 2. To accept and abide by all provisions of the **City 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: _____, _____ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$ _____ (Inspection Fee Paid) DATE: _____, _____
\$ _____ (Connection Fee Paid) SIGNED: _____
(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, _____ SIGNED: _____
(CITY CLERK)

APPLICATION FOR SANITARY SEWER AND/OR WATER SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____ hereby makes application for Sanitary Sewerage and/or Water 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 and due on the **fifteenth (15th) day** of each month and if not paid, are subject to a **ten percent (10%)** penalty.
- 3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
- 4. I understand that after making this application, I am to await installation permit and instructions therewith.
- 5. SERVICE CONNECTION FEE is enclosed herewith, payable to the City
 \$100.00 for Sewer Service Only \$200.00 for Water Service Only
 \$300.00 for Water and Sewer Service.
- 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 Sewer and/or Water System.

ALL CONNECTIONS MUST BE INSPECTED BEFORE BACKFILLING.

APPLICANT'S SIGNATURE

STREET ADDRESS

OWNER'S SIGNATURE, IF NOT APPLICANT

CITY, STATE AND ZIP CODE

PHONE NUMBER

RECEIPT AND TERMS

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below:

TERMS:

- 1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.
- 2. No sewer can be installed until the roof is on the house.
- 3. Any water and sewer construction on City property will have to be jetted and seeded and inspected by City personnel.
- 4. When crossing streets, dirt will have to be removed, hole filled with sand to within **eight (8) inches** of top of pavement and then **eight (8) inches** of CA6.
- 5. After the roadway has settled, where water lines and sewer lines were installed, the City will blacktop and the homeowner will be billed for the blacktop.
- 6. 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.

CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT

IT IS HEREBY CERTIFIED THAT inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specification, 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: _____

INSTALLATION BY: _____

THE SERVICE IS IN OPERATION AS OF THIS ___ DAY OF _____, _____.

**CITY OF ELMWOOD
COUNTY OF PEORIA**

SUPERINTENDENT: _____

PLEASE NOTE THAT WATER WILL NOT BE TURNED ON UNTIL THIS INSPECTION FORM HAS BEEN TURNED INTO THE CITY CLERK'S OFFICE.

UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **City of Elmwood, 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 ELMWOOD, ILLINOIS**

BY: _____

MAYOR

ATTEST:

CITY CLERK

APPLICANT/DEPOSITOR

WITNESSES:

UTILITY SHUTOFF HEARING NOTICE

This notice is being sent to you pursuant to the provisions of **CHAPTER 38 OF THE REVISED CODE OF ORDINANCES** as adopted by the corporate authorities.

CUSTOMER'S NAME: _____

ADDRESS: _____

TOTAL AMOUNT OF BILL: \$_____ WATER

\$_____ SEWER

\$_____ OTHER

SUB-TOTAL: \$_____

PENALTY: \$_____

TOTAL DUE: \$_____

DATE OF HEARING _____

TIME OF HEARING _____

LOCATION OF HEARING _____

PHONE: _____

If the consumer/customer fails to appear at the hearing, the applicable utility services shall be **terminated** [shut off] without further proceedings.

If payment for the charges and fees is received prior to the date of the hearing, you may disregard this hearing notice.

The Mayor and City Clerk, or their designated representative(s), shall preside at the hearing.

CITY CLERK

DATED THIS _____ DAY OF _____, ____.

NOTE: After services have been shut off there will be a reconnection fee of \$_____.

CHAPTER 40

ZONING CODE

ARTICLE I - GENERAL

40-1-1 TITLE. This Code shall be known as and referred to as the Zoning Code of the City of Elmwood, Illinois.

40-1-2 PURPOSE AND AUTHORITY. It is the purpose of the Zoning Code for the City to establish standards and regulations for the review and approval of all proposed development of property in the City, and to provide a development review process that will be comprehensive, consistent, and efficient in the implementation of the City's comprehensive plan and other goals, policies and standards of the City.

In order to foster and preserve the public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the City, it is the intent of the City Council that the development process in the City be efficient, in terms of time and expense, effective, in terms of addressing the natural resource and public facility implications of proposed development, and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interest of the citizens of the City.

It is the specific intent of the City to work cooperatively with all interested branches of government, including, but not limited to, the Illinois Department of Transportation, the Illinois Department of Natural Resources, Office of Water Resources, the United States Army Corps of Engineers, and any local health departments to aid in the harmonious, orderly and progressive development of the City. It is also the intent of the City to work cooperatively with its neighboring county and municipal governments so as to foster the integrated, comprehensive and equitable development of the City and its environs.

These regulations are adopted pursuant to the authority granted to the City by Ill. Const. Art. VII, §7 (1970) and **65 ILCS 5/11-13-1 et seq.** in order to carry out the purposes stated therein.

It is also the purpose of this Code to regulate adult uses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult uses within the City. The provisions of this Code have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Code to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Code to condone or legitimize the distribution of obscene material.

Based on evidence of the adverse secondary effects of sexually oriented adult businesses, presented in hearings and in reports made available to the City Council, and on findings incorporated in the cases of *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425, 122 S. Ct. 1728 (May 13, 2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 427 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *Schultz v. City of Cumberland*, 26 F.Supp.2d 1128 (W.D. Wisc. 1998), *aff'd in part, rev'd in part*, 228 F.3d 831 (7th Cir. 2000);

Blue Canary Corp. v. City of Milwaukee, 270 F.3d 1156 (7th Cir. 2001); *Matney v. County of Kenosha*, 86 F.3d 692 (7th Cir. 1996); *Berg v. Health & Hospital Corp.*, 865 F.2d 797 (7th Cir. 1989); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *Genusa v. City of Peoria*, 619 F.2d 1203 (7th Cir. 1980); *North Avenue Novelties, Inc. v. City of Chicago*, 88 F.3d 441 (7th Cir. 1996); *Chulchian v. City of Indianapolis*, 633 F.2d 27 (7th Cir. 1980); *County of Cook v. Renaissance Arcade and Bookstore*, 122 Ill. 2d 123 (1988); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997) (including cases cited therein); and other cases; and on reports of secondary effects occurring in and around adult uses, including, but not limited to, Phoenix, Arizona - 1984; Houston, Texas - 1997; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio; Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Tucson, Arizona; Beaumont, Texas and also on findings from the Report of the Attorney General's Working Group On The Regulation Of Adult uses, (June 6, 1989, State of Minnesota), the City Council finds:

(A) Certain employees of unregulated adult uses defined in this Code as adult theatres and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(B) Sexual acts, including masturbation, and oral and anal sex, occur at unregulated adult uses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(C) Persons frequent certain adult theatres, adult arcades, and other adult uses for the purpose of engaging in sex within the premises of such adult uses, or for the purpose of purchasing or selling illicit drugs.

(D) These and other activities occurring in and around adult businesses can have deleterious effects upon surrounding commercial and residential areas, including a negative effect on property values and an increase in crime.

(E) Chlamydia, gonorrhea, syphilis, genital herpes, trichomoniasis and human papilloma virus (genital warts) are all sexually transmitted diseases that are spread primarily through genital sexual contact with an infected partner.

(F) There are estimated 800,000 to 900,000 people currently living with HIV in the U.S. with approximately 40,000 new HIV infections occurring in the U.S. every year. ("A Glance at the HIV Epidemic," Centers for Disease Control and Prevention, Division of HIV/AIDS Prevention.)

(G) A total of 29,490 AIDS cases were reported to the Illinois Department of Public Health (January 1981 through June 2003). In the County of Peoria, 201 AIDS cases were reported during the same period. (Illinois Quarterly AIDS/HIV Surveillance Report, June 2003, Illinois Department of Public Health).

(H) An estimated 180,000 – 280,000 persons (25% of people with HIV) do not know they are HIV positive. ("Advancing HIV Prevention: New Strategies for a Changing Epidemic – United States, 2003" Centers for Disease Control and Prevention: MMWR Weekly April 18, 2003 52 (15): 329-332).

(I) 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.

(J) As of December 2001, a total of 468,298 AIDS deaths were reported in the U.S. (<http://www.cdc.gov/hiv/stats.htm>).

(K) An estimated 28,000 to 38,000 persons in Illinois are HIV infected (<http://www.idph.state.il.us/health/statshome.htm>).

(L) The cumulative HIV cases reported from July 1999 through June 2003 were 9,589 in Illinois and 90 in the County of Peoria. (Illinois Quarterly AIDS/HIV Surveillance Report, June 2003, Illinois Department of Public Health).

(M) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(N) Sanitary conditions in some adult uses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(O) Numerous cases, studies and reports have determined that semen is found in the areas of adult uses where persons view "adult" oriented films.

(P) Adult uses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.'

(Q) The general welfare, health, and safety of the citizens of the City will be promoted by the enactment of this Code.

40-1-3 **JURISDICTION AND APPLICABILITY.**

(A) **General.** Except as otherwise provided in this Section, the regulations in this Code shall govern the development and use of land and structures, including but not limited to, all lots of record, subdivision and resubdivisions of land and planned developments within the City. Except as otherwise provided by these regulations, no building, structure, or land shall be used or occupied, and no building, structure, or land shall be developed unless in conformity with all of the provisions of these regulations for the zoning district in which it is located and all other applicable regulations. In addition, pleasure driveways and park districts as defined in the Illinois Park District Code, now in effect or as hereafter amended, **(70 ILCS 1205/1-1 et. seq.)**, with a population of greater than 100,000, are exempt from the regulations of this Code.

(B) **Transition Period.** Where a complete application for development approval (including building permit, special use approval, site plan approval, variance approval, final plan or record plat approval) is pending on the effective date of this Code, the provisions of the regulations in effect when the application was filed shall govern the review and approval of the application for development approval. If such application is approved within **six (6) months** of the date of adoption of this Code, then the applicant shall be entitled to complete the development, provided that construction begins within **six (6) months** of the issuance of such approval and is diligently pursued to completion.

(C) **Existing Unlawful Uses and Structures.** A structure or use not lawfully existing at the time of the adoption of these regulations is hereby deemed lawful as of the effective date of this Code, provided that it conforms with all of the requirements of these regulations. However, if such structure or use does not conform with all of the requirements of these regulations, then such structure or use remains unlawful hereunder.

(D) **Existing Permitted Uses.** When a lot is used lawfully on the effective date of this Code and **Article VI** of these regulations classifies such use as a "permitted use" in the zoning district in which it is located, such use is hereby deemed to be a lawful permitted use for the purposes of these regulations.

(E) **Existing Special Uses.** When a lot is used lawfully on the effective date of this Code and **Article VI** of these regulations classifies such use as a "special use" in the zoning district in which it is located, such use is hereby deemed to be a lawful special use

for the purposes of these regulations. If the use was approved as a special use prior to the effective date of these regulations, and if the approval of such special use was subject to one or more conditions, those conditions shall continue in full force and effect unless a new special use approval is obtained in accordance with **Section 40-5-5** of these regulations.

(F) **Addition to, Expansion of, or Change of Use in Existing Special Uses.** Any addition to or expansion of a lawful special use, as defined in Subsection (E), above, shall require new special use approval in accordance with the procedures and standards set forth in **Section 40-5-5** of these regulations for new special uses. Any change in a lawful special use to a new use shall be permitted only if these regulations classify the new use as a permitted use or a special use in the zoning district in which it is located, and only in accordance with the approval procedures set forth in these regulations for such use.

(G) **Previously Granted Variances.** All variances granted prior to the effective date of this Code, and any conditions attached thereto, shall remain in full force and effect, and the recipient of the variance may proceed to develop the property in accordance with the plans previously approved. However, if the recipient of the variance has failed to act on the variance before the variance expires, the provisions of these regulations shall govern.

(H) **Prior Zoning Districts.** Upon the adoption of these regulations, land which is presently zoned within an existing zoning classification shall be classified within one of the zoning classifications set forth in **Article VI** of these regulations in such a way as to implement the City’s comprehensive plan and to promote consistency between the existing land use and zoning classification. The districts are listed as follows:

<u>Prior Zoning District</u>	<u>New Zoning District</u>
A-1 Agricultural Preservation	A-1 Agricultural Preservation
A-2 Agricultural	A-2 Agricultural
R-R Rural Residential	R-R Rural Residential
R-1 Low Density Residential	R-1 Low Density Residential
R-2 Medium Density Residential	R-2 Medium Density Residential
R-3 High Density Residential	R-3 High Density Residential
C-1 Neighborhood Commercial	C-1 Neighborhood Commercial
C-2 General Commercial	C-2 General Commercial
I-1 Light Industrial	I-1 Light Industrial
I-2 Heavy Industrial	I-2 Heavy Industrial

40-1-4 FEES. All applications for development approval submitted to the City under these regulations shall be accompanied by payment of a fee as adopted by the City Council from time to time to defray the costs incurred by the City in reviewing the application. No application shall be considered to be complete and subject to review by the City until such fee has been paid. In addition to the fees adopted by the City Council, all applicants for development approval shall reimburse the City for reasonable costs incurred as a result of the application’s review by a legal, engineering, or other special consultant, provided that the applicant is notified of the need to retain such special consultant and agrees to such retention. Payment of these fees shall be made prior to a final vote or decision by the City Council, the Zoning Board of Appeals, or the Zoning Administrator on a given development application. When a process requires multiple approvals, such as a rezoning and a special use, all applicable fees shall be levied and collected by the Zoning Administrator. Fees required under these regulations are as follows:

ZONING BOARD OF APPEALS FEES	
Variance	\$400
Special Use	\$890 plus recording fee
Special Use for Variances	\$400 plus recording fee
Special Use for Nonconformities	\$400 plus recording fee
Special Use Modification	\$690 plus recording fee
Special Use Mobile Home	\$320 plus recording fee
Map Amendment (Rezoning)	\$65 per acre with a minimum fee of \$955 and a maximum fee of \$3,200
Appeal	\$240
ADMINISTRATIVE FEES	
Zoning Certificate	No charge
Stop Work Order	\$250 first day of violation + \$20 for each additional day violation exists
Home Occupation Permit, Initial Application	\$160
Home Occupation, Annual Renewal	\$45
Administrative Variance	\$135
Fence Permit	\$55
Sign Permit (without electric)	\$50
Sign Permit (with electric)	\$105

***IF WORK ON PROJECT COMMENCES PRIOR TO THE ISSUANCE OF THE REQUIRED PERMIT(S) OR PAYMENT OF THE REQUIRED FEE(S), ALL FEES MAY BE DOUBLED AS DETERMINED BY THE MAYOR AND ZONING ADMINISTRATOR.**

(Ord. No. 2018-11; 11-19-19)

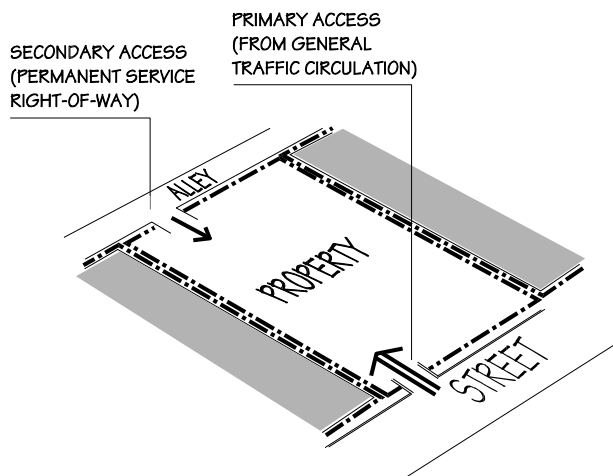
ARTICLE II - DEFINITIONS AND RULES OF CONSTRUCTION

40-2-1 RULES OF CONSTRUCTION. For the purposes of these regulations, the following rules of construction shall apply:

- (A) These regulations shall be construed to achieve the purposes and intent for which they are adopted.
- (B) In the event of a conflict between the text of these regulations and any caption, figure, illustration, table, or map, the text of these regulations shall control.
- (C) In the event of any conflict in limitations, restrictions, or standards applying to an individual use or structure, the more restrictive provisions shall apply.
- (D) The words "shall", "must" and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- (E) The word "may" is permissive in nature.
- (F) Words used in the present tense include the future tense.
- (G) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.
- (H) Words used in the masculine gender include the feminine gender.
- (I) Any act authorized by these regulations to be carried out by a specific official or agency of the City is impliedly authorized to be carried out by a designee of such official or agency.
- (J) The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded.
- (K) Any words and terms not defined herein shall have the meaning indicated by common dictionary definition.

40-2-2 DEFINITIONS. For the purposes and intent of these regulations, the following words and terms have the meanings specified herein:

Abutting: Having property boundaries or lot lines in common with, but not being separated by a street, alley or other public right of way.



Access: A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

Accessory: A use, building or structure, or part of a building or structure which: (1) is subordinate to and serves the principal building or structure or principal use; (2) is subordinate in area, extent, or purpose to the principal building or structure or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and (4) is located on the same lot as the principal building or structure or principal use served, with the exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same lot as the building or use served.

Acre: 43,560 square feet.

Adjacent/Adjoining: Abutting or being directly across a street, alley, or other public right of way from.

Adult Bookstore, Adult Novelty Store, Adult Video Store: "Adult Bookstore, Adult Novelty Store, or Adult Video Store" means a commercial establishment which has a significant or substantial portion of its stock-in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a significant or substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

(A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";

(B) The term "Adult Bookstore, Adult Novelty Store, or Adult Video Store" shall also include a commercial establishment which regularly maintains one or more "Adult Arcades." "Adult Arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or specified "anatomical areas."

Adult Cabaret: "Adult Cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features: (1) persons who appear semi-nude, (2) live performances which are characterized by the exposure of any "specified anatomical areas," or (3) films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas."

Adult Motel: "Adult motel" means a motel, hotel, or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, and which regularly provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which regularly advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and (b) offers a sleeping room for rent for a period of time less than **ten (10) hours**.

Adult Motion Picture Theater: "Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

Adult Theater: "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in state of semi-nudity or live performances which are characterized by their emphasis upon the exposure of "specified anatomical areas" or "specified sexual activities."

Adult-Use Cannabis Business Establishment: An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization. **(Ord. No. 2020-08; 12-03-20)**

Adult-Use Cannabis Craft Grower: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Act, as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 2020-08; 12-03-20)**

Adult-Use Cannabis Cultivation Center: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Act, as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 2020-08; 12-03-20)**

Adult-Use Cannabis Dispensing Organization: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Act, as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 2020-08; 12-03-20)**

Adult-Use Cannabis Infuser Organization or Infuser: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Act, as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 2020-08; 12-03-20)**

Adult-Use Cannabis Processing Organization or Processor: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Act, as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 2020-08; 12-03-20)**

Adult-Use Cannabis Transporting Organization or Transporter: An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Act, as it may be amended from time to time, and regulations promulgated thereunder. **(Ord. No. 2020-08; 12-03-20)**

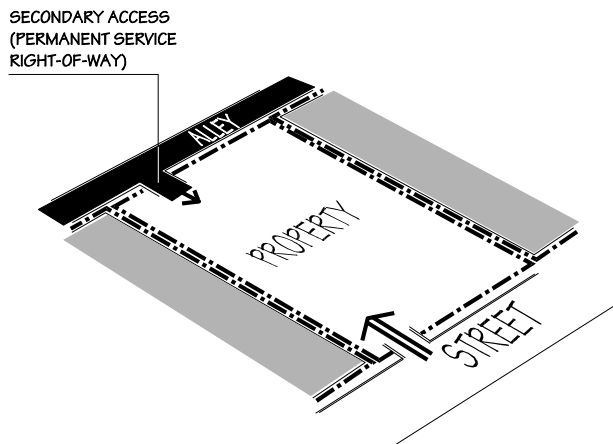
Aggrieved Party or Person: A party or person whose legal right has alleged to have been invaded or infringed, or whose pecuniary interest is alleged to be directly affected by a government act complained of.

Agriculturally-Related Business: A business activity related to agriculture that includes but is not limited to: grain drying and storage; grain elevators; agricultural production and distribution; repair and sale of farm implements; and sale of feed and sod.

Agriculture: Land used for agricultural purposes when such agricultural purpose constitutes the principal activity on the land. Agricultural purposes include the growing of farm crops, truck garden crops, animal and poultry husbandry, apiculture, aquaculture, dairying, floriculture, horticulture, nurseries, tree farms, sod farms, pasturage, viticulture, wholesale greenhouses and the growing, developing, processing, conditioning or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.

Agricultural Facility: Any building or structure suitable for use in farming, ranching, the production of agricultural commodities, or the treating, processing, or storing of such agricultural commodities and machinery when such activities are customarily engaged in by farmers as a part of farming, and not including structures used for living purposes.

Alley: A permanent service right-of-way which affords only a secondary means of access from such right-of-way to abutting property and is not intended for general traffic circulation.



Alteration: Any change, replacement, or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress and egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Antenna: An arrangement of wires or metal rods used in transmitting or receiving electromagnetic waves.

Application for Development Approval: The application form and all accompanying documents and exhibits required in order to obtain development approval.

Appurtenances: The visible, functional, or ornamental objects accessory to and part of a building(s).

Authorized Factory Representative: An individual with technical training of a Wind Energy Conversion System ("WECS"), who has received factory installation instructions and is certified in writing by the manufacturer of the WECS.

Automated Teller Machine: A machine that dispenses money and/or receives deposits.

Automobile: A two-axle motor vehicle designed and used primarily for the conveyance of not more than **nine (9) persons** that weighs less than **eight thousand (8,000) pounds**.

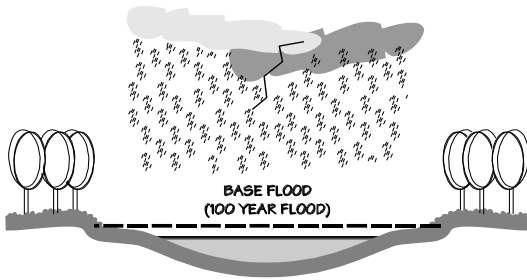
Automobile Body Repair: The business of auto body repair for automobiles. The term may include automobile repair, mechanical, as well as structural repair or appearance alteration (e.g., painting or detailing).

Automobile Repair: The business of mechanical or electrical repair work and servicing of automobiles, including fast service, tune-up, and lubricating facilities, but specifically excluding body work or painting.

Automobile Sales: A building or land used for the sale and display of automobiles or motorcycles. Accessory uses may include automobile repair and vehicle preparation.

Automobile Service Station: Any building, structure, or lot used for **one (1)** or more of the following: (1) dispensing, selling or offering for retail sale, gasoline, kerosene, lubricating oil, or grease for the operation and maintenance of automobiles, including the sale and installation of tires, batteries and other minor accessories and services for automobiles; or (2) automobile mechanical repair. This may include buildings or structures that are used for the retail sale and direct delivery to motor vehicles of cigarettes, candy, soft drinks and other related items for the convenience of the motoring public, and may include facilities for the washing of automobiles where production line methods are not used. Such establishments shall not include facilities for automobile body repair, mechanical vehicle repair, vehicle body repair, car washing, or the sale or storage of new or used automobiles or trailers.

Base Flood: The flood having a one per cent chance of being equaled or exceeded in a given year. The base flood is also known as the **one hundred (100) year** flood.



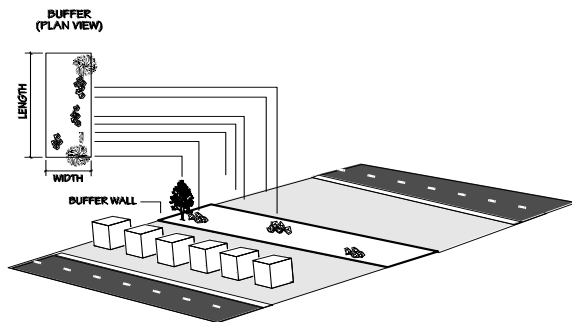
Basement: A story entirely or partly underground and having at least **one-half (1/2)** of its height below grade.

Billboard: A nonresidential sign, which is located off-premises, greater than **one hundred (100) square feet** in sign face area.

Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, or other lines of demarcation.

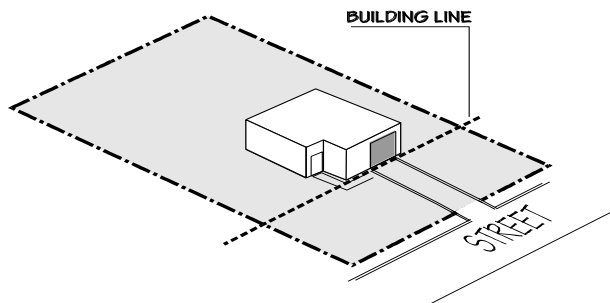
Bluff: A steep headland, river bank, or cliff with a broad face and with a slope of **thirty-five percent (35%)** or greater.

Buffer: A combination of vegetation, fencing, berms and open spaces which is used to physically separate or screen land uses.



Building: Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property.

Building Line: A line parallel to the right-of-way line touching that part of a building closest to the right-of-way.



Bulk: The size and setback of buildings or structures, and the location of buildings or structures with respect to one another, and includes, but is not limited to the following: (a) size and height of buildings; (b) location of exterior walls at all levels in relation to lot lines, streets, or to other buildings; (c) floor area ratio; (d) all open space allocated to buildings; and (e) amount of lot area and lot width provided per dwelling unit.

Business: An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is sold or where services are offered.

Caliper: The diameter of a tree trunk, measured in inches. For the purpose of this Zoning Code caliper shall be taken **six (6) inches** above the ground up to, and including **four (4) inch** caliper trees, and **twelve (12) inches** above the ground for larger sizes. Caliper is generally associated with nursery stock for new plantings.

Camp: A tract of land on which may be located temporary or permanent buildings, structures, or tents, which land, together with appurtenances thereon, is used for seasonal, recreational, or other similar purposes.

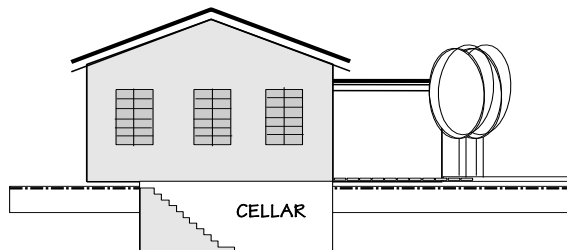
Canopy or Awning: A permanent roof-like shelter which may be freestanding or extending from part or all of a building face and is constructed of some durable material such as metal, glass or plastic.

Caretaker: A person who is responsible for the protection of property, equipment, and/or merchandise and who resides on such premises.

Carport: A roofed structure permanently open on at least **two (2) sides** and designed for or occupied by automobiles or recreational vehicles.

Car Wash: A completely or partially enclosed building or structure for the washing of automobiles or other motor vehicles, either by automatic or semi-automatic means, whether or not in conjunction with other goods or services provided to customers.

Cellar: A story having more than one-half of its height below grade, and distinguished from a basement by not being well lighted and fitted for living purposes. A cellar is not included in computing the number of stories for the purposes of height or floor area measurement.



Certificate of Occupancy: A document issued by the City allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all applicable City regulations.

Child Care Center: An individual, agency or organization which regularly provides pre-school instruction or supervision and care on a regular basis for less than **twenty-four (24) hours** per day for **one (1)** or more children in a facility other than a detached dwelling, who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

Child Care Home: Any detached dwelling which receives more than **four (4)** but no more than **eight (8) children** for less than **twenty-four (24) hours** per day. The maximum of **eight (8) children** received shall be reduced in number by the family's natural or adopted children and all other persons under the age of **fourteen (14)** residing in the home. This does not include an operation which receives only children from a single family.

City: City of Elmwood, Illinois.

City Council: The City Council of the City of Elmwood, Illinois.

Clinic: Any building or portion thereof, the principal use of which is for offices of **one (1)** or more licensed physicians, ophthalmologists, dentists, psychologists or the like for the examination and treatment of persons on an out-patient basis only.

Clinic, Animal: Any building or portion thereof, the principal use of which is for offices of **one (1)** or more licensed veterinarians for the examination and treatment of animals on an out-patient basis only.

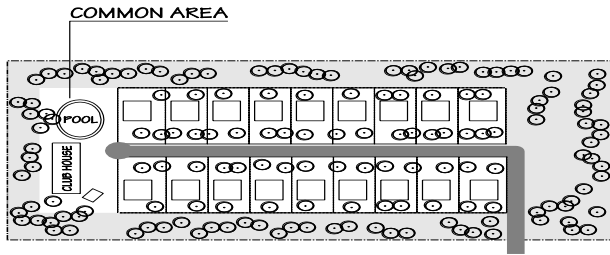
Club: A structure and/or facilities used for the purpose of meetings and/or events for a non-profit association of persons who are bona fide members organized for some common purpose and paying regular dues; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

College or University: An institution providing full-time or part-time education beyond the high school level, including any dormitories, lodging rooms or other housing for students or faculty.

Commercial Retail Establishment: A building, property, or activity the principal use or purpose of which is the sale of goods, products, or materials directly to the consumer. This includes, but is not limited to, clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, book stores, florists, furniture stores, hardware stores, pet stores, toy stores, and variety stores but does not include restaurants or personal service establishments.

Commercial Vehicle or Truck: A motor vehicle which has a gross weight in pounds, including vehicle and maximum load, in excess of **eight thousand (8,000) pounds** and which is not primarily designed for carrying passengers.

Common Area: A lot, parcel, or area within a development conveniently accessible to all residents or occupants of the development, designed as a significant focus, centrally located, not including required setbacks, private open space, or impervious surface, designed to accommodate some group social functions.



Community Center: A building for social, educational and recreational activities of a neighborhood or community, including a social hall or lodge, not operated primarily for commercial purposes.

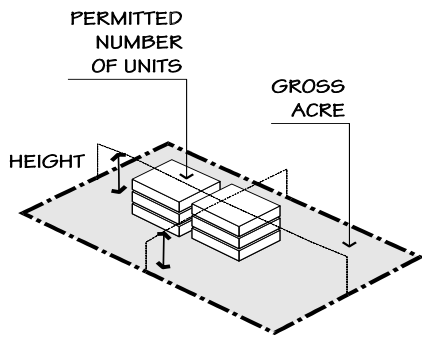
Contiguous: Abutting or adjoining.

Contractor: Any person or firm engaged in construction, building services, excavation or maintenance on a contract basis.

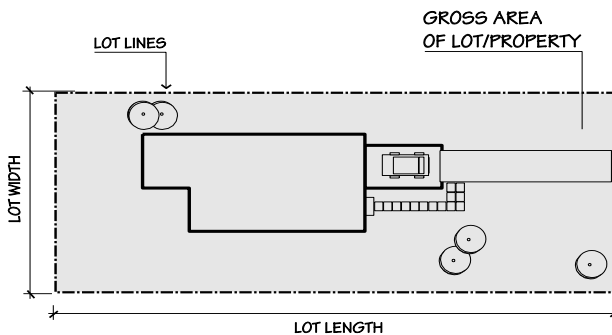
Convenience Store: A retail store with a floor area of less than **five thousand (5,000) square feet**, which sells groceries and/or beer and wine, and is open **fifteen (15) to twenty-four (24) hours** a day, but not including an automobile service station.

Dance Hall: Establishments in which a minimum of **twenty percent (20%)** of the total floor area is designed and used as a dance floor, or where an admission fee is directly collected, or some other form of compensation is obtained for dancing.

Density: The permitted number of dwelling units per gross acre of land to be developed.

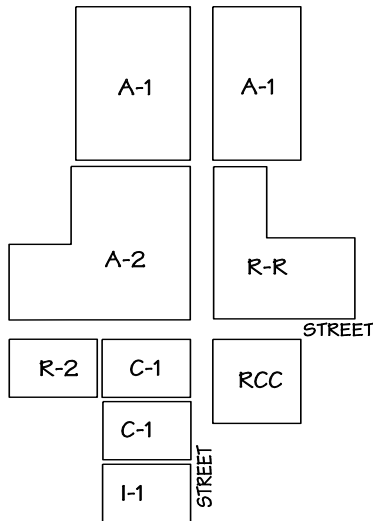


Density, Gross: All the area within the boundaries of the particular area, excluding nothing.



Developer: Any person seeking approval under these regulations for any form of development.

Development: The following activities: (1) the division of a parcel of land into **two (2)** or more parcels; (2) the construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of a structure; (3) the mining, excavation, landfill, drilling, grading, deposition of refuse, solid or liquid waste, or fill on a parcel of land; (4) the alteration of the shore or bank of a pond, lake, river, or other waterway; or (5) any use or change in the use or intensity of use of any structure or any change in the intensity of use of land.



Diameter at Breast Height (dbh): The diameter of the trunk of a tree measured in inches at a point **four and one-half (4 1/2) feet** above ground level, or grade. This point of measurement is used for established, mature trees.

Distinguished or Characterized by an Emphasis Upon: "Distinguished or Characterized by an Emphasis Upon" means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of Specified Sexual Activities or Specified Anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description "specified anatomical areas" or "specified sexual activities."

District: A part, zone, or geographic area within the City within which certain zoning or development regulations apply.

Dormitory: A building containing kitchen and bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than **six (6) persons** who are not related by blood, marriage, or adoption but who are affiliated with or employed by the same educational, religious, or health institution, and which is not located on the principal lot occupied by that institution. "Dormitory" shall not include an overnight accommodation, residential-care home, or health institution.

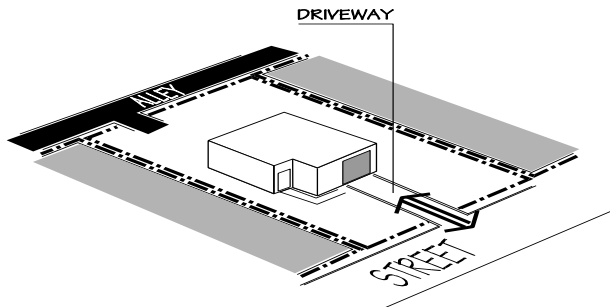
Drip Line: The footprint of a canopy, awning or other roof like structure that is delineated by the perpendicular measure of the structure's most outside edge to the grade below.

Drive-in Theater: An outdoor movie theater designed to allow patrons to view motion pictures while seated in their parked automobiles.

Drive-Through Service Window: A facility which is accessory to a commercial retail establishment, personal service establishment, office, financial institution, or fast-food restaurant and is designed or intended to enable a customer, without exiting a motor vehicle parked on or moving through the premises, to transact business with a person outside the motor vehicle.

Duplex: A building containing **two (2)** single-family dwelling units totally separated from each other by a common, unpierced wall extending from ground to roof.

Driveway: Any surface providing direct ingress to and egress from a parking space or structure.



Dwelling: A building or portion of a building designed or used exclusively for residential purposes, including single family and multi-family dwellings, but not including overnight accommodations.

Dwelling, Attached: A dwelling unit that shares common walls with at least **one (1)** other dwelling and includes duplexes on **one (1) lot** or **two (2) townhouses** on individual lots.

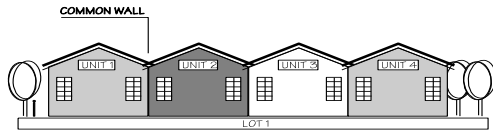
Dwelling, Detached: A dwelling unit that is developed with open yards on all sides, but not including recreational or motor vehicles.

Dwelling, Multi-Family: **Three (3)** or more dwelling units on one lot, including modular homes, attached along and sharing **one (1)** or more common walls between any **two (2) units** and/or stacked one above another.

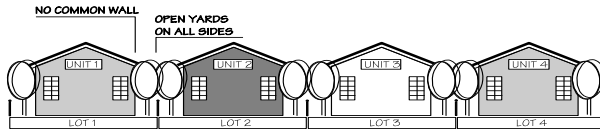
Dwelling, Single-Family: A detached dwelling, designed for or intended to be occupied by **one (1) family**.

Dwelling, Townhouse: An attached group of up to **eight (8) dwelling units**, including modular homes, which share **one (1)** or more common walls between any **two (2) units** and in which each unit has living space on the ground floor and a separate entrance on the ground floor.

Dwelling, Two-Family: A multiple-family dwelling designed and intended to house **two (2) families.**



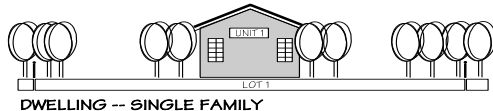
DWELLING -- ATTACHED



DWELLING -- DETACHED



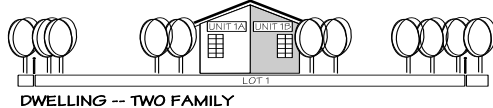
DWELLING -- MULTI-FAMILY



DWELLING -- SINGLE FAMILY



DWELLING -- TOWNHOUSE



DWELLING -- TWO FAMILY

Dwelling Unit: **One (1)** or more rooms in a building which are arranged, designed, or used as living quarters for **one (1) family** only, including individual bathrooms and complete kitchen facilities that are permanently installed to serve the entire family within each dwelling unit, not available for rental on a daily or weekly basis.

Employ, Employee, and Employment: "Employ, Employee, and Employment" describe and pertain to any person who performs any service on the premises of an adult use, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Establish or Establishment: "Establish or Establishment" shall mean and include any of the following:

- (A) The opening or commencement of any adult use as a new business;
- (B) The conversion of an existing business, whether or not an adult use, to any adult use;
- (C) The addition of any adult use to any other existing adult use; or

(D) The relocation of any adult use.

FAA: The Federal Aviation Administration of the United States Department of Transportation.

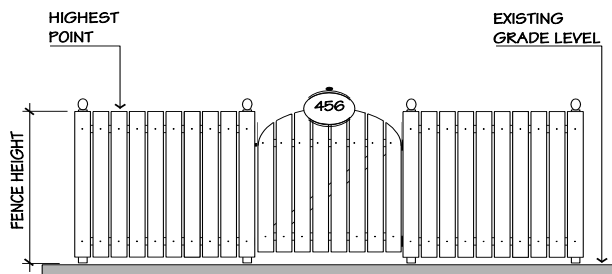
Family: An individual, or **two (2)** or more persons related by blood, marriage or adoption (including foster children), together with such relatives of the respective spouses, who are living together as a single housekeeping unit. The term "family" shall include any domestic servants and not more than **one (1)** gratuitous guest, but shall not include a fraternity, sorority, overnight accommodation, or residential-care home.

Farm: Any parcel of land used for the growing and harvesting of crops, for the feeding, breeding and management of livestock, for dairying, or for any other agricultural or horticultural use.

FCC: The Federal Communications Commission.

Feedlot: A place in which animal livestock (excluding fowl) are fed, raised, or held prior to slaughter or sale.

Fence: A free-standing structure made of metal, masonry, composition, or wood, or a combination thereof, including gates, resting on or partially buried in the ground, rising above ground level, and used to delineate a boundary or as a barrier or means of protection, confinement or screening. The term "fence" does not include arbors or trellises.



Fence, Height: That height as measured from the existing grade level of the property on which the fence is installed to the highest point located on the fence, excluding ornamental features.

Fence, Open: A fence of which open spaces afford direct views through the fence that comprise at least **fifty percent (50%)** of each **one (1) foot** wide segment extending over the entire length and height of the fence, and includes gates.

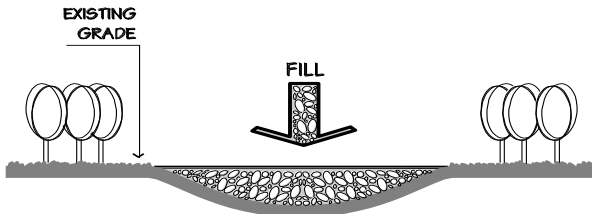
Fence, Perimeter: A fence that follows the outward boundaries of the property on which it is located.

Fence, Solid: A fence that conceals from view of adjacent property, streets, or alleys and any and all activities conducted behind it, and includes gates.

Fencing, Ornamental: A type of fence that is not intended to act as a barrier or means of protection, confinement, or screening, but is decorative in nature or is a component of a yard

landscape. Ornamental fencing does not include chain link fences, but may include decorative posts, lattices, arbors, trellises, and types of split rail fences.

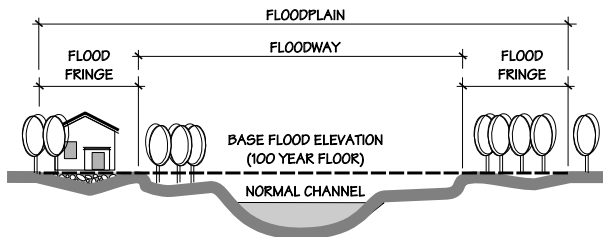
Fill: Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and any conditions resulting therefrom, including but not limited to, the increase in the natural ground surface elevation.



Financial Institution: A bank, credit union, savings and loan association or other similar entity or organization which makes or purchases loans or provides other financial assistance.

Flood: A general and temporary inundation of normally dry land areas from overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

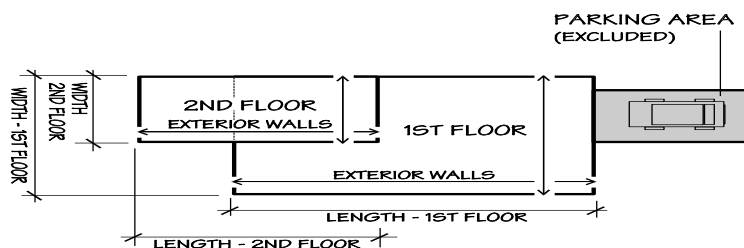
Floodplain: That land adjacent to a body of water with ground surface elevations at or below the 100-year frequency flood elevation. The floodplain is also known as the special flood hazard area (SFHA).



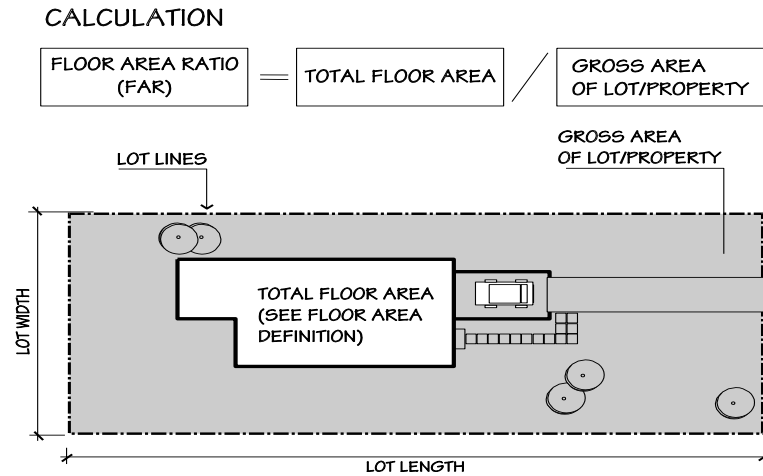
Floor Area: The sum of the gross horizontal areas of each floor measured from the exterior walls or from the center line of party walls. "Floor Area" includes the floor area of accessory buildings and structures, but does not include any area used exclusively for the parking of motor vehicles.

CALCULATION

$$\boxed{\text{TOTAL FLOOR AREA}} = \boxed{\text{1ST FLOOR LENGTH} \times \text{WIDTH (FROM EXTERIOR WALLS)}} + \boxed{\text{LENGTH} \times \text{WIDTH (OF EACH ADDITIONAL FLOOR MEASURED FROM EXTERIOR WALLS)}}$$

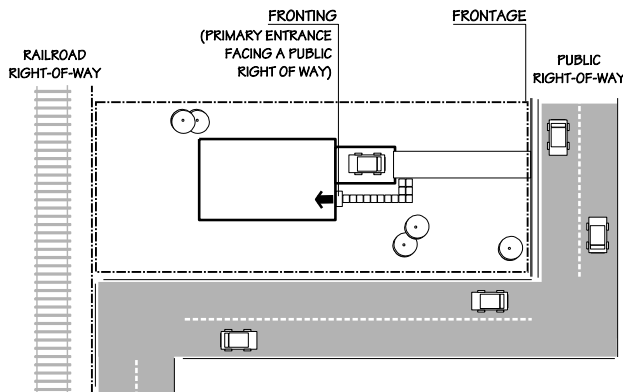


Floor Area Ratio (FAR): The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.



Frontage: The length of the property line on any one parcel parallel to and along each public right-of-way it borders.

Fronting: The front or primary entrance to a building facing a public right-of-way line.



Fuel Station: Any equipment used to dispense fuels that are capable of serving no more than **two (2) automobiles** or vehicles at a time.

Garage, Private: A building designed for the storage of motor-driven vehicles, including not more than **one (1)** commercial vehicle the load capacity of which shall not exceed a gross vehicle weight of **eight thousand (8,000) pounds**, under the control of the owner or tenant of the premises and which is not operated or leased for commercial gain. A private garage shall be limited to **seven hundred fifty (750) square feet** in size.

Garage, Public: A building designed, used, or intended to be used for the housing, care, or storage of more than **three (3)** motor-driven vehicles or more than **one (1)** commercial vehicle, that is available to the public for compensation, whether by prior rental or lease agreement or on an hourly or daily basis.

Gas Station Convenience Store: Any building, structure, or parcel primarily used for the dispensing, selling or offering for retail sale gasoline, diesel fuel, or kerosene. A retail store which sells convenience items such as groceries and alcoholic beverages and may also have restaurant facilities accessory to the sale of the fuel. This shall not include any repair or service to an automobile or vehicle, and it shall not include the sale of parts for said repair.

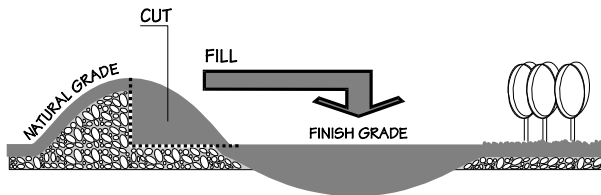
Golf Course: A multiple hole course for playing golf, including any accessory driving range, clubhouse, office, restaurant, concession stand, picnic tables, pro shop, maintenance building, restroom facility or similar accessory use or structure. This term shall not include miniature golf courses as a principal or accessory use, nor shall it include driving ranges which are not accessory to a golf course.

Governmental Use: A building, use or structure owned or occupied and regulated by a local government agency including a public facility, but not including a vehicle storage yard, food irradiation facility, educational or health institution, university, military facility, residential care home.

Governmental Use, Essential: A governmental use that is indispensable to the community's health, safety and welfare, including, but not limited to: police stations, fire stations, emergency medical services, and governmental buildings without equipment storage.

Governmental Use, Non-essential: A governmental use that is not critical to the health, safety, and welfare of the community, such as: libraries, museums, post offices, and governmental buildings with equipment storage.

Grade: The average level of the ground at its natural level (not bermed or filled) adjacent to the exterior walls of a building or structure.



Grading: Any activity which removes or covers the vegetative surface, including but not limited to: excavation, stripping, fill, or any combination thereof (and the conditions resulting from any excavation, stripping or fill), tree removal, clearing, filling, or the removal of topsoil or fill.

Grasslands: Land in which the dominant plant species are native grasses.

Greenhouse: A nursery located in a building with a foundation whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season flowers, shrubs and plants.

Greenhouse, Commercial: A greenhouse where flowers, shrubs and plants that are grown off-site are sold.

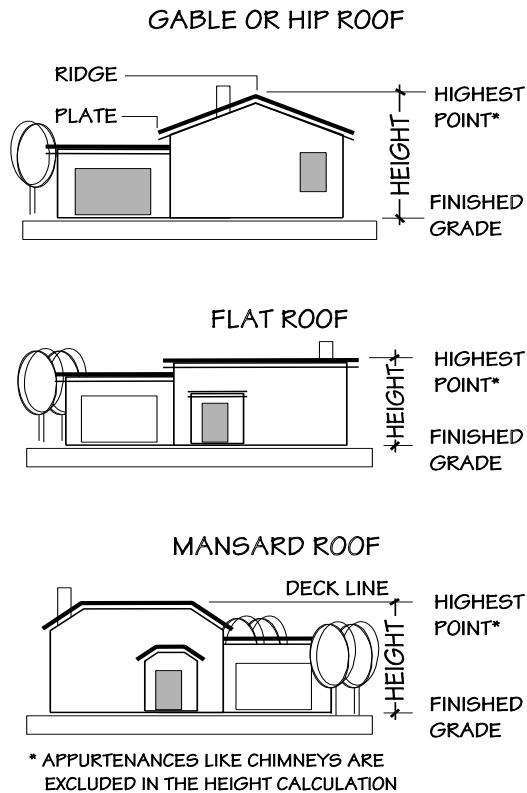
Greenhouse, Non-Commercial: A greenhouse where flowers, shrubs, and plants are grown on-site for personal enjoyment, wholesale distribution, or sale. "Non-commercial greenhouses" are a form of "agriculture."

Halfway House: A facility primarily designed for the residence of persons on parole or mandatory supervised release.

Health Club or Fitness Center: A privately-owned building or enclosed structure containing recreational facilities, such as athletic or physical conditioning equipment, racquet courts, and/or a swimming pool, which is operated on a private membership basis and restricted to use by members and their guests.

Heavy Equipment: Equipment, including but not limited to construction, and municipal implements.

Height: The vertical distance from grade to the highest point of the roof of a building or structure.



High Quality Native Plant Communities: Vegetative communities such as woodlands, prairies, and wetlands characterized by an unusual number and diversity of plant species native to Illinois.

Historic Sites: A structure or place of outstanding historical and cultural significance and designated as such by State or Federal government or by a local government or local non-profit historical society or foundation.

Home Improvement Center: A business which sells, primarily at retail, supplies and equipment for home improvements, including hardware, housewares, lumber, lighting and electrical fixtures, appliances, and lawn and garden center products.

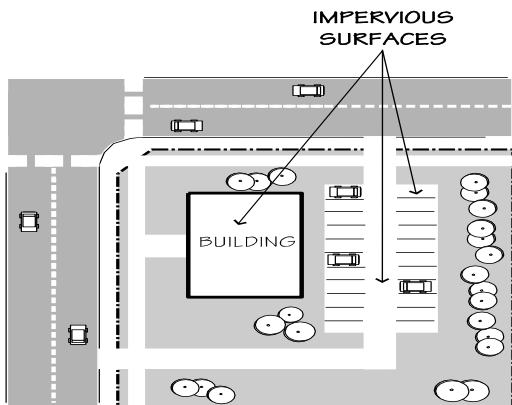
Home Occupation: A business, profession, occupation, or trade which is conducted within a residential portion of a building or an accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use within the dwelling.

Hospital: A public or private institution, whether organized for profit or not, which is devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of **two (2)** or more unrelated persons, whose principal residence is located elsewhere, and who are admitted for overnight stay or longer in order to obtain medical and/or psychiatric treatment of illnesses, diseases, injuries and deformities.

Hospital, Animal: A public or private institution, whether organized for profit or not, which is devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of animals which are admitted for overnight stay or longer in order to obtain veterinary treatment for illnesses, diseases, injuries and deformities.

ILCS: Illinois Compiled Statutes.

Impervious Surface: An all-weather surface or ground cover that resists the absorption of surface water into the soil. Such surfaces include those constructed of stone, brick, asphalt, concrete, tile, terrazzo, gravel composite, or any other paving material, used for parking, driveways, patios, terraces, walkways, and the like, as well as areas covered by buildings, decks, porches, swimming pools, and tennis courts.

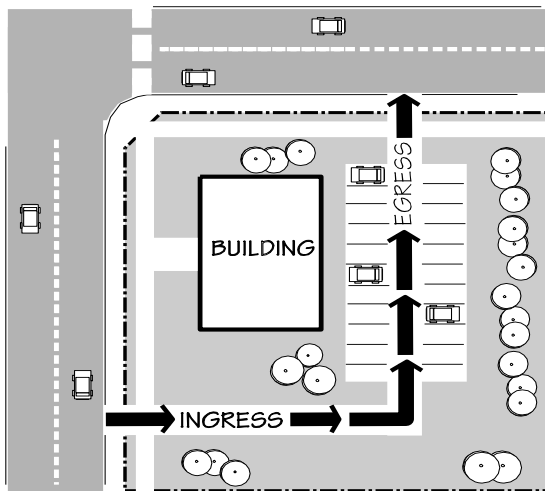


Improvement: Any structure, object, fence, gate, wall, work of art or other object that permanently becomes part of, placed upon, or is affixed to real estate.

Industry, Heavy: The assembly, fabrication, manufacturing, storage or processing of goods and materials that ordinarily have significant impacts on the environment or on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that otherwise do not constitute "light industry," such as food processing plants, resource extraction, recycling centers, sawmills, composting services, scrap or salvage operations, petroleum storage facilities, or facilities handling or processing hazardous and/or toxic material.

Industry, Light: The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing does not exceed **twenty-five percent (25%)** of the floor area of all buildings on the lot. This includes, but is not limited to printing, publishing or photography plants, dry-cleaning processing stations, carpet cleaning establishments, facilities for auto body work, welding, painting or major repair work, research laboratories which are designed or equipped for basic or applied research or experimental study, testing or analysis in the natural sciences or engineering, including any educational activities associated with and accessory to such research. This shall not include uses that constitute "heavy industry."

Ingress and Egress: Entrance or access and exit, respectively.



Institutional Use: Uses that may or may not be permitted or special uses in a zoning district that typically provide educational, governmental, health, recreational, religious, social, and transportation services the community on either a for-profit or not-for-profit basis.

Junkyard: An area of land, and any accessory thereon, which is used primarily for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials, including motor vehicles, machinery and equipment not in operable condition, or parts thereof, and other metals, paper, rags, rubber tires, and glass, except within completely enclosed buildings.

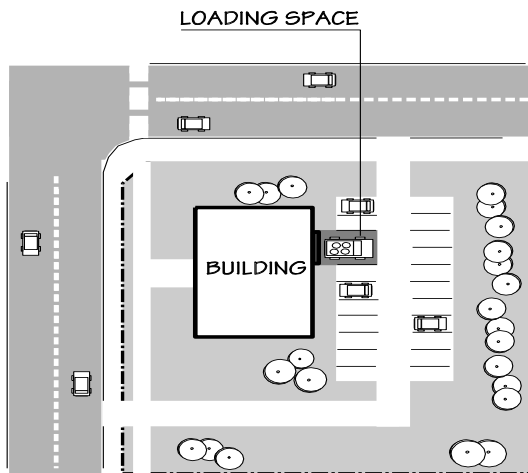
Kennel, Commercial: A use or structure intended and used for the breeding or overnight boarding of animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for and accessory to the testing and medical treatment of the physical disorders of animals.

Lake: An inland body of water with an acre or more of surface area.

Landscaping: Trees, shrubs, flowers, vines, potted plants, ground cover, walkways, ponds, fountains, sculptures, earth berms, fences, stone, bark, and other materials used to create an outdoor environment.

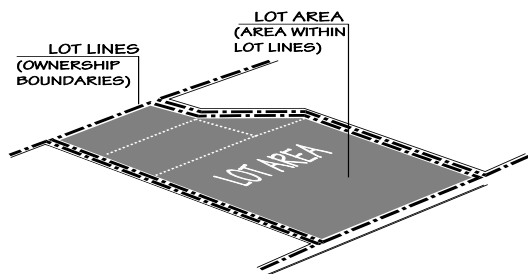
Landscape Contractor: A business principally engaged in the decorative and functional alteration, planting and maintenance of grounds. Such a business may engage in the installation and construction of underground improvements but only to the extent that such improvements (e.g. drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the ground.

Loading Space: A space with access to a street or alley for the standing, loading, or unloading of motor vehicles delivering or picking up goods and materials.

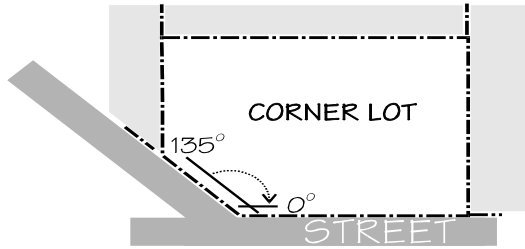


Lot: A parcel of land legally described or subdivided as a distinct portion or piece of land or lot of record to be separately owned, used, or developed.

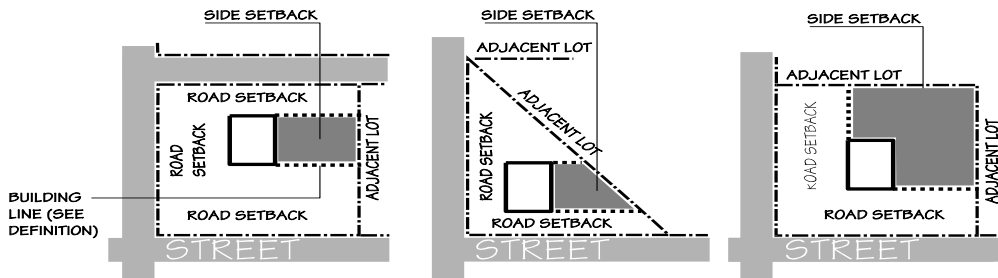
Lot Area: The area of a horizontal plane bounded by the front, side, and rear lot lines, but not including area occupied by streets or bodies of water fed by natural means.



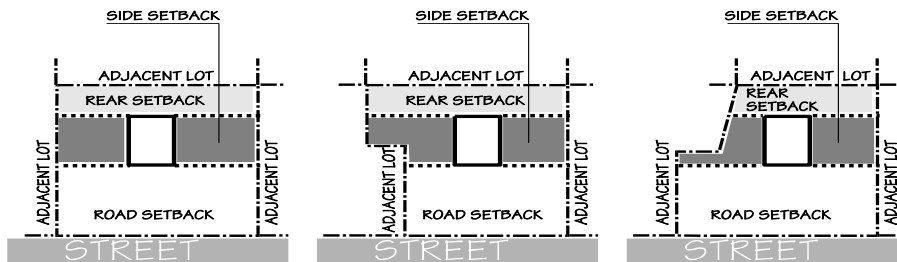
Lot, Corner: A lot which occupies the interior angle at the intersection of **two (2) street lines** which make an angle of less than **one hundred thirty-five (135) degrees** with each other, or a lot having **two (2) front yards**.



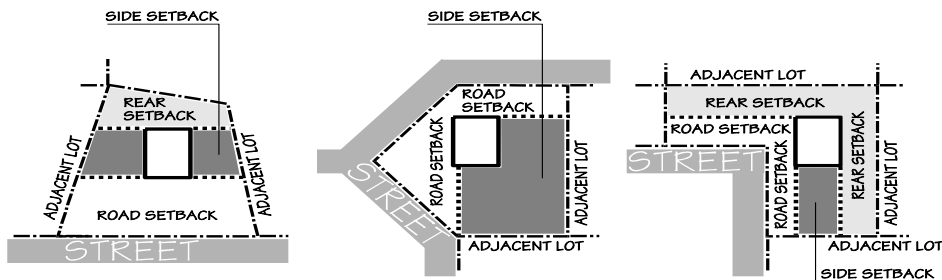
Lot Line: A line defining the ownership boundary of a lot.



CORNER LOT EXAMPLES



INTERIOR LOT EXAMPLES

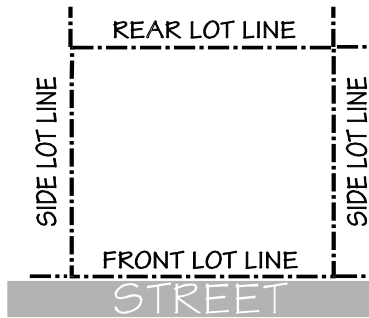


ODD-SHAPED LOT EXAMPLES

Lot Line, Front: The boundary of a lot which abuts a street. On a corner lot, the front lot line is the lot line which is opposite the front wall of the principal structure.

Lot Line, Rear: The lot line which is most distant from and most nearly parallel to the front lot line, or in the case of an irregular or triangular lot, a lot line **ten (10) feet** long within the lot, parallel to and a maximum distance from the front lot line.

Lot Line, Side: A lot line which is not a front lot line or a rear lot line.



Lot of Record: A single lot which is part of a subdivision plat which has been recorded in the office of the Recorder of Deeds of City of Elmwood, Illinois or a single parcel of land, the deed of which has been recorded in the office of the Recorder of Deeds of Peoria County, Illinois.

Major Stands of Trees: Areas which are **one (1)** or more acres in size, and which have **seventeen (17)** or more deciduous trees native to Illinois per acre each measuring at least **six (6) inches** in diameter at breast height.

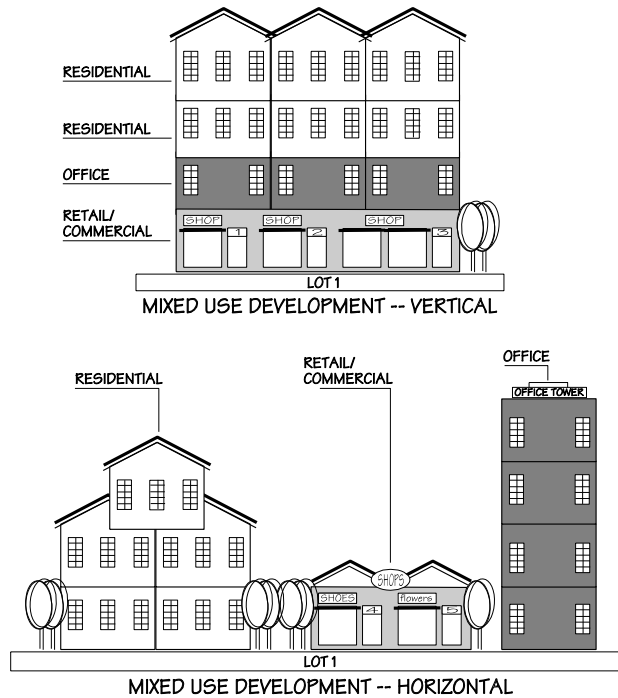
Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

Marina: A boat basin and recreational facility, located on waterfront property or having direct water access, providing moorings for boats, and one or more of the following facilities: boat launching ramps, boat livery, boat sales, maintenance shops, marine supply store, and fuel dock.

Medical Rehabilitation Center: Any building or any portion thereof, the principal use of which is for offices and treatment facilities for physical, occupation, and recreational therapists or the like for the examination and treatment of persons on an outpatient basis only, but does not include clinics or medical offices.

Mineral Extraction Facility: The extraction of coal, sand, gravel, stone, or other materials by open pit or shaft methods, or the removal of topsoils as a principal use of land not incidental to any use or a permitted construction project. The term includes mining equipment, such as conveyors, crushers, washers, draglines, wheels, dredges, drill rigs and other similar-related equipment, but does not include asphalt plants, ready-mix concrete facilities, and other similar facilities and uses.

Mixed Use Development: A development that is comprised of a group of **two (2)** or more types of development, such as multifamily, commercial, and retail, constructed on the same lot or parcel of land under single ownership, in accordance with the zoning district in which it is located.



Mobile Home: A structure that meets the National Manufactured Home Construction and Safety Standards Act ("the HUD Code," 42 U.S.C. 5401) that is designed for permanent or temporary habitation and so constructed as to permit its transport on wheel from the place of its construction to the location or subsequent locations at which it is intended to be a permanent or temporary habitation and designed to permit the occupancy thereof as a dwelling place of **one (1)** or more persons.

Mobile Home Park: A site containing spaces with required improvements and utilities for the long term placement of mobile homes and that may include services and facilities for the residents, but not including recreational vehicle parks or camps.

Mobile/Modular Home Sales: The sale or display of mobile homes, modular homes, or both for order and sale.

Modular Home: A dwelling unit approved by the Illinois Department of Public Health and composed of elements substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. The term does not include mobile homes.

Motor Vehicle: A motorized device intended for the transportation of people or property over land surfaces. The term specifically includes automobiles, trucks, motorcycles, motor bikes, go-carts, all-terrain vehicles, and any other recreational vehicles.

Multi-Modal Center: A facility for the receipt, transfer, short-term storage, or dispatching of goods which may involve one or more modes of transportation, including, but is not limited to air, rail, barge, and vehicle.

Nonconforming Building or Structure: Any building or structure lawfully existing on the effective date of these regulations, or any amendment thereto, rendering such building or structure nonconforming, which does not comply with all of the standards of these regulations or any amendment thereto.

Nonconforming Use: Any use lawfully being made of any land, building, or structure on the effective date of these regulations or any amendment thereto rendering such use nonconforming, which does not comply with all of these regulations or any amendment thereto.

Nonconforming Vacant Lot: Any lot of record which does not contain a use or building and which does not meet the minimum area or width requirements established in these regulations or any amendment thereto.

Nudity or a State of Nudity: "Nudity" or "State of Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple.

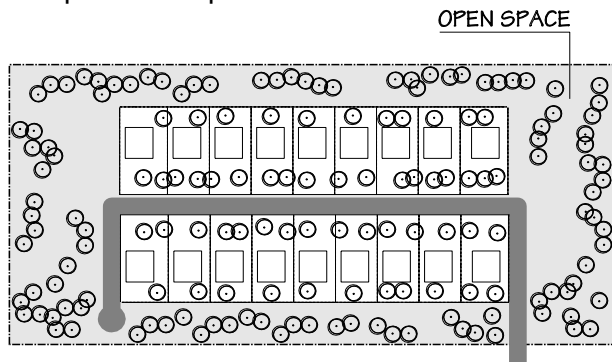
Nursery: Land or greenhouses where flowers, shrubs, and plants are grown on-site for personal enjoyment, wholesale distribution, or sale.

Nursing Home: A home for the elderly, chronically ill, infirm, or incurable persons, or a place of rest for those suffering bodily disorders, in which **three (3)** or more persons, not members of a family residing on the premises, are provided with food, lodging and medical care, but not including hospitals, or clinics.

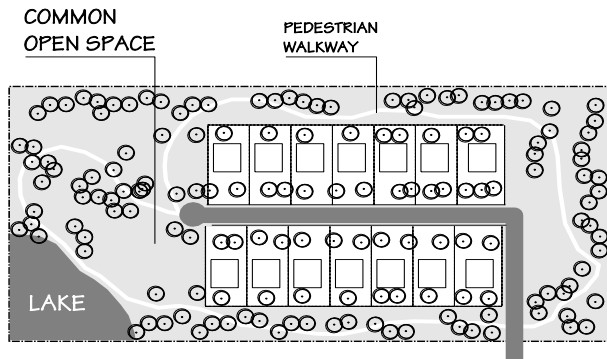
Office: A use or building where business is conducted which does not primarily involve retail activities at that location. This includes, but is not limited to, general business offices, government offices, insurance offices, law offices, and real estate sales and management offices.

Open picnic shelter: A covered structure with no exterior or interior walls, usually equipped with tables, benches, grills, and trash receptacles, and intended to be used as a place to assemble, cook, eat, and/or relax.

Open Space: Any portion of a parcel or area of land or water which is open and unobstructed from the ground to the sky, including areas maintained in a natural and undisturbed character. The term "open space" shall not include water below the mean high water line, or areas covered with buildings, structures, sidewalks, patios, parking areas, except that **fifty percent (50%)** of any area paved with permeable materials shall be considered "open space."



Open Space, Common: A parcel(s) of land or an area of water or a combination of both land and water located within a development site and designed and intended for the use and enjoyment of residents of the development or for the general public, but not including streets or off-street parking areas.



Open Space, Useable: Total area of open space exclusive of right-of-way, drives, parkways and slopes greater than **thirty percent (30%)**. The least dimension of each parcel of useable open space shall not be less than **thirty (30) feet**.

Overnight Accommodation: A facility offering transient lodging accommodations at a daily rate to the general public and which may also provide additional services, such as restaurants, meeting rooms, and recreational facilities, such as hotels, motels, and bed and breakfast establishments.

Owner: A person or persons recorded as such on official records and includes a duly authorized agency or notary, a trustee, a purchaser, or a devisee; any person having a vested or contingent interest in the property in question.

Parcel: A contiguous lot or tract of land owned and recorded or controlled by the same person(s) or entity.

Park: A lot, or portion thereof, or aggregation of contiguous lots, used by the public for outdoor recreational activities, including any accessory office, picnic tables, maintenance building, restroom facility, storage facility, or similar accessory use or structure.

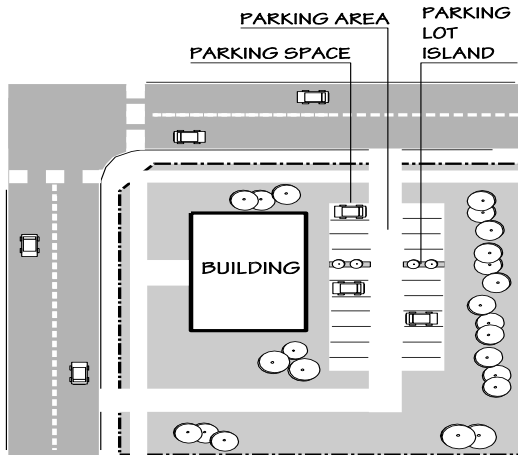
Parking Area: An area containing **one (1)** or more designated parking spaces.

Parking Deck: A structure or building in which automobiles are parked on **two (2)** or more levels or stories.

Parking Lot: A parking area that is open to the sky, but not including the uppermost level of a parking deck.

Parking Lot Island: A landscaped area surrounded by a parking lot on **three (3)** or more sides.

Parking Space: An area, enclosed or unenclosed, reserved for the parking of **one (1)** motor vehicle.



Parkway: A strip of land situated within the dedicated street right-of-way and (1) located between the roadway and right-of-way line or (2) a median located between the roadways.

Particulate Matter: Material other than water which is suspended in or discharged into the atmosphere in a finely divided form as a liquid or solid.

Permanent Foundation: A closed perimeter formation intended to support and anchor the unit and consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line which shall include, but not necessarily be limited to, cellars, basements, or crawl spaces, but does exclude the use of piers.

Person: An individual, corporation, governmental agency, business, trust estate, partnership, **two (2)** or more persons having joint or common interest, or any other legal entity.

Person: "Person" shall mean individual, proprietorship, corporation, association, or other legal entity. (as per adult use ordinance 9-11-03)

Personal Service Establishment: A business which provides personal services directly to customers at the site of the business, or which receives goods from or returns goods to the customer which have been treated or processed at another location. This includes, but is not limited to, travel agencies, dry-cleaning and laundry drop-off and pick-up, laundry coin-op, stations, tailors, hair stylists, cosmeticians, toning or tanning salons, postal substations, package delivery drop-off and pick-up stations, quick-print photo establishments, shoe repair shops, interior design studios, and domestic pet services.

Place of Worship: A church, synagogue, temple, mosque or other institution for religious worship, including any accessory use or structure, such as a school, day care center, or dwelling that is located on the same lot.

Planned Development: A parcel or tract of land initially under unified ownership or control, and which is or is intended to be the site for **two (2)** or more principal buildings or **one (1)** or more principal use, or **one (1)** principal building for **two (2)** or more principal uses. The term "planned development" includes all planned developments, whether residential, commercial or

otherwise in nature, regardless of whether an actual division of property is required or not, and regardless of whether it is specifically labeled a planned development or not.

Planned Development, Residential: A development comprised of attached and/or detached dwelling units that has coordinated common open space and service areas and is built in accordance with densities specified in the zoning district in which it is located.

Plat: A map, plan or layout representing a tract of land showing the boundaries, location, and existing conditions, such as easements and utilities, of individual properties and streets, or showing a map of a subdivision or site plan.

Plot: A single unit parcel of land, or a parcel of land that can be identified and referenced.

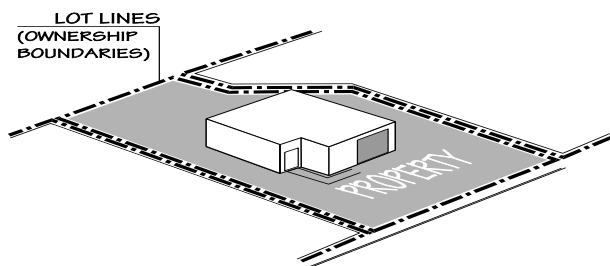
Porch: A platform which projects from the exterior wall of a building, has direct access to the street level of the building, is covered by a roof or eave which may be supported by posts, and has no roof-supporting walls on **three (3) sides**.

Pond: An island body of water with less than an acre of surface area.

Prairie: An open area covered by low-growing plants, dominated by grass-like species of which at least **one-half (1/2)** are true grasses, and with less than mature tree per acre. An open area characterized by a predominance of grasses and wildflowers, **one-half (1/2)** of which are native grasses to Illinois.

Principal Building or Structure: A building or structure containing the principal use of the lot.

Property: A lot, parcel, or tract of land, together with any improvements and/or structures erected, constructed or contained thereon.



Public Transportation Facilities: Passenger terminals, stations, shelters and related facilities primarily intended for the transportation of commuters.

Public Utility Structure: An electricity or gas substation, water or wastewater storage tank, tower, reservoir, filtration plant or pumping station, telephone repeater station or similar structure used as an intermediary switching, boosting, distribution or transfer station for electricity between the point of generation and the end user, including communication support structures and antennas, radio, television, microwave transmission or relay towers, and other similar distributing equipment.

Recreation Area or Facility: A building, auditorium, stadium, outdoor amphitheater, open or enclosed structure, outdoor field or playground containing recreational space, such as a tennis

court, swimming pool, bowling alley, and/or gymnasium, and operated by a government agency or as a business.

Recreational Vehicle: A vehicular-type portable structure (marine or terrain) without a permanent foundation that can be towed, hauled, or driven, and that is primarily designed for recreational, camping, and travel use, including, but not limited to: camping trailers, motor homes, mini motor homes, travel trailers, truck campers, van campers, stock cars, boats, snowmobiles, or other such item used primarily for recreational purposes. "Recreational Vehicle" also includes trailers designed to transport materials other than people, including, but not limited to, boats, vehicles, snowmobiles and other forms of cargo. When recreational vehicles are affixed to a trailer, the vehicles and trailer shall be considered **one (1)** recreational vehicle.

Recreational Vehicle Park: Any lot or parcel of land designed to be occupied by **two (2)** or more recreational vehicles as temporary living quarters for recreation or vacation purposes. The term includes any structures or vehicles intended for use as a part of such recreational vehicle park.

Recycling Center: A site or facility that accepts only segregated, non-hazardous, non-special, homogenous, non-putrescible materials such as dry paper, glass, cans, or plastics, for subsequent use in the secondary materials market. This shall not include a facility which handles, collects, or otherwise stores or processes automobile bodies or parts, toxic or hazardous materials, or recyclable materials mixed with other refuse.

Recycling Drop off Center: A facility where recyclable materials are temporarily stored or collected, or are processed by manual separation.

Regularly Features or Regularly Shown: "Regularly Features or Regularly Shown" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult use.

Residence: A dwelling where a person is actually living at a specific point in time.

Residential-Care Home: A dwelling in which staff persons provide care, education, and participation in community activities for a group of unrelated individuals who have long-term mental, intellectual, developmental or physical disabilities or handicaps, and who are unable to live independently but are capable of community living if provided with an appropriate level of supervision, assistance and support services, but who do not require on-site medical or nursing facilities, with the primary goal of developing or exercising basic skills for daily living. This does not include dwellings for persons whose primary reason for placement in the dwelling is the abuse of alcohol or controlled substances, or the need for continuous nursing or medical care, or for persons who have recently been released from incarceration, or dwellings which serve as an alternative to incarceration for persons convicted of criminal offenses or declared criminally insane or dangerous.

Residential-Care Home, Small: A residential-care home with **one (1)** to **five (5)** residents.

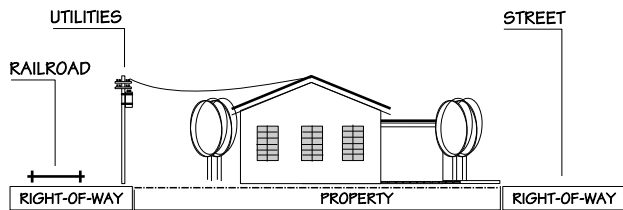
Residential-Care Home, Medium: A residential-care home with **six (6)** to **eight (8)** residents.

Residential-Care Home, Large: A residential-care home with more than **eight (8)** residents.

Residential Use: Any dwelling, designed and intended to house **one (1)** or more families.

Restaurant: An establishment, including banquet halls, that is open to the public where food and beverages are regularly prepared, consumed and sold: (a) at a table or counter within the premises; (b) for consumption at a table or counter outdoors, but located on the premises; (c) for consumption in automobiles or other motor vehicles located in parking areas on the premises; and (d) for consumption off the premises. The term includes "fast food" restaurants, whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.

Right-of-Way: A general term denoting a public way, usually in a strip, dedicated, or acquired for or devoted to access, utility or transportation purposes.



Right-of-Way Line: The outer boundary of a right-of-way.

Riparian Zone/Riparian Corridor: Natural vegetation along the edge of a stream that: modulates temperature; provides nutrient input into the stream system; provides a buffer that intercepts surface runoff, filtering out sediments and pollutants; provides erosion control through soil stabilization; and serves as habitat and movement corridors for wildlife who utilize the stream for food, water and cover.

Road Frontage: All of the property fronting on one side of a street between **two (2) intersecting streets**, or in the case of a dead-end street, all of the property along one side of the street between an intersecting street and the end of such dead-end street.

Roof: A solid overhead structure used for protection or shielding from the sun, rain, or other elements of weather.

Runoff: That portion of precipitation that has not been absorbed by the soil or plant material and which reaches the drainage system or the edge of a parcel of land.

Scenic Vista: An area from which a diversity of natural features can be observed, which generally includes a focal point, such as a river or lake.

School: A privately or publicly owned elementary school, middle school, junior high school, or high school which does not provide lodging for students.

School, Arts: A secondary or higher education facility primarily teaching skills in crafts and the fine arts and does not provide lodging or dwelling units for students or faculty.

School, Boarding: A privately owned school which provides lodging or dwelling units for students on the same property.

School, Vocational: A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade or business and does not provide lodging or dwelling units for students or faculty. The term "vocational schools" may include schools that teach repair skills for automobiles or other types of heavy machinery that require garage and/or outdoor work space.

Screening: Structures, solid fences, or evergreen vegetation maintained for the purpose of concealing from view the area or objects behind such structures, solid fences or vegetation.

Semi-Nude Model Studio: "Semi-Nude Model Studio" means any place where a person, who regularly appears in a state of semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

Semi-Nude or State of Semi-Nudity: "Semi-Nude or State of Semi-Nudity" shall mean a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

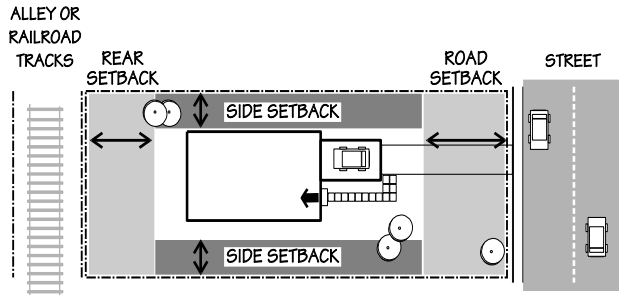
It is a defense to prosecution for any violation of this Code that a person appearing in a state of nudity or semi-nudity or semi-nudity did so in a modeling class operated:

- (A) By a college, junior college, or university supported entirely or partly by taxation;
- (B) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (C) In a structure:
 - (1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
 - (2) Where, in order to participate in a class a student must enroll at least **three (3) days** in advance of the class.

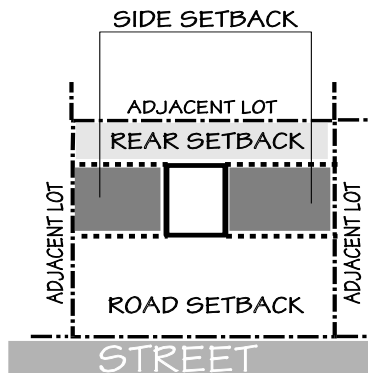
Setback: The horizontal distance between any portion of a structure or any development activity and a right-of-way, the bank of a perennial stream, the centerline of an intermittent stream, the ordinary high water mark of a lake or pond, and the edge of a wetland, measured at the structure's or development's closest point to the bank, centerline, ordinary high water mark, easement, property line, or other point on or near the site.

Setback, Rear: An open space between the rear of a building or structure and the lot line farthest from the front lot line, projected to the side lines of the lot on which the building or structure is located.

Setback, Road: An open space between a building or structure and the street line of the lot on which the building or structure is located, unoccupied and unobstructed from the ground upward, except by fences or as otherwise provided in these regulations. In measuring a road setback, the horizontal distance between the street line and the closest projection of the building shall be used. Every required road setback shall be measured at right angles (90 degrees) from the street line.



Setback, Side: An open space between the side of a building or structure and a lot line running to the street abutting the lot, projected to the front setback and rear setback of the lot on which the building or structure is located.



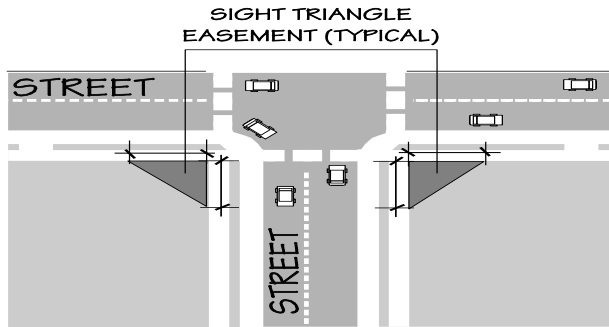
Sexually Oriented Adult Business: "Sexually Oriented Adult Business" shall be interchangeable with "Adult Business" and shall mean an adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, or semi-nude model studio.

Sexually Oriented Entertainment Activity: "Sexually Oriented Entertainment Activity" means the sale, rental, or exhibition for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances which are characterized by an emphasis on the exposure or display of specific sexual activity.

Shopping Center: A building or group of buildings containing **ten (10)** or more commercial retail establishments, personal service establishments, and/or restaurants intended to serve regional shopping needs and constructed on a parcel of land under unified ownership or control, and which is planned and developed with unified building design and coordinated parking and service areas.

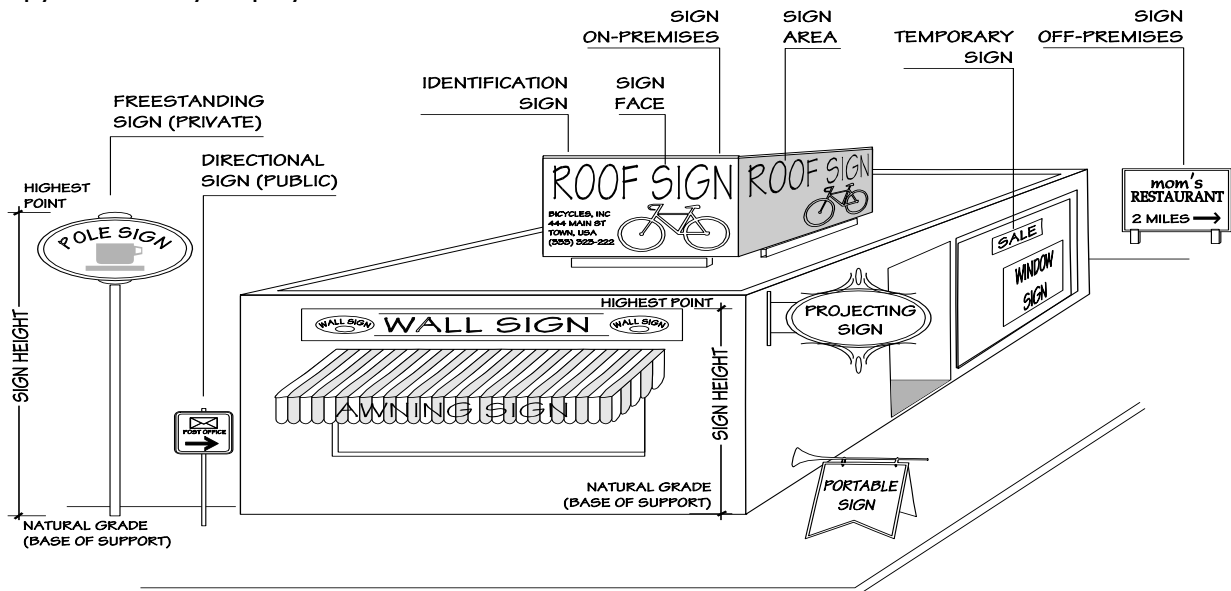
Sidewalks: A paved, surfaced, or leveled portion of the right-of-way, paralleling and usually separated from the street, used as a pedestrian walkway.

Sight Triangle: The area of the corner lot closest to the intersection which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic as more specifically defined in **Section 40-7-1(E)**.



Sign: Any object, device, display or structure, or part thereof, which is used primarily to advertise, identify, display or direct or attract attention to an object, person, establishment, product, service, event or location by any means including, without limitation, words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images, visible beyond the boundaries of the lot or parcel on which they are situated or visible from any public thoroughfare or right of way. This includes, but is not limited to, wall signs, freestanding signs, ground signs, window signs, awning or canopy signs, marquees, changeable copy signs, message boards, illuminated signs, moving signs, temporary signs, portable signs, pennants, banners, streamers or any other attention-getting device, flag, or other display, whether affixed to a building or erected elsewhere on the premises. The term "sign" excludes those features of a building which are an integral part of the building's design and structure.

Sign Area: The entire area of all sign faces, cumulatively, including sign faces on which no copy is currently displayed.



Sign, Banner: A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted.



Sign, Canopy or Awning: Any sign which is affixed to, painted on or suspended from a canopy or awning.

Sign, Copy, Changeable or Message Board: A sign on which the copy changes automatically on a lamp bank or through mechanical means, such as electrical or electronic time and temperature units, or is changed manually in the field in or upon the surface area of the sign.

Sign, Directional: A sign containing directional information about public places owned or operated by Federal, State, or Local governments or their agencies; publicly or privately owned historic, educational, cultural, scientific and religious sites; areas of natural or scenic beauty; or areas for outdoor recreation. Information displayed on a directional sign shall be limited to the name of the business/entity, location, and hours of operation.

Sign Face: That part of the sign which is or can be used to identify, to advertise, to communicate information, or for visual representation which attracts the attention of the public for any purpose. This shall include any background material, panel, trim, color, and direct or self-illumination that differentiates the sign from the building, structure, backdrop surface, or object upon or against which it is placed. This shall not include any portion of the support structure for the sign, provided that no message, symbol, or any of the aforementioned sign face criteria is placed on or designed as part of the support structure.

Sign, Flashing: Any sign which contains an intermittent or flashing light source, or which produces the illusion of intermittent or flashing light.

Sign, Freestanding: A sign which is completely or principally supported by **one (1)** or more post or other support of which **seventy-five percent (75%)** is visually or physically attached to the ground, which is not attached to the principal building on the property, and is anchored in or upon the ground. This shall include, but not be limited to, signs attached to poles or supports for lights, canopies, and other items or structures.

Sign, Height: The vertical distance measured from the natural grade at the base of the sign support to the highest point of the sign.

Sign, Identification: A sign which states the name of the business or establishment, including either the national company or local proprietor, and/or the address of a building.

Sign, Illuminated: Any sign which emanates light either by means of exposed tubing or lamps on its surface or by means of illumination transmitted through the sign faces.

Sign, Indirectly Illuminated: Any sign which reflects light from a source intentionally directed upon it, for example by means of a flood light.

Sign, Integral: An identification sign which is integrated into or made an integral part of a structure. Such signs often display names of buildings, dates of erection, monumental citations, and/or commemorations.

Sign, Nonconforming: Any sign which was lawfully erected and maintained prior to the adoption and effective date of these regulations and any amendments hereto, which fails to conform to all applicable regulations and restrictions of this Code, or a sign previously deemed to be nonconforming for which a special permit has been issued.

Sign, Off-Premises (Off-Site Sign): Any sign that identifies a business, person, activity, goods, products, services or facilities or that directs persons to a different location from where the sign is located.

Sign, On-Premises (On-Site Sign): Any sign that identifies a business, person, activity, goods, products, services or facilities that is located on the same premises as the sign itself.

Sign, Portable: Any sign that is not permanently attached to the ground, a structure, or a building and which is designed to be transported to another location.

Sign, Projecting: Any sign that is attached to a wall in a perpendicular manner.

Sign, Public: A sign of a non-commercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of a public duty, such as official signs and notices of any public or governmental agency, or erected by or on the order of a court or public officer, including official traffic signs authorized by the Illinois Compiled Statutes (ILCS) or the Illinois Vehicle Code.

Sign, Temporary: A sign which contains information which is not of a permanent character. Such signs include, but are not limited to, political signs, garage sale signs and real estate signs.

Sign, Wall: Any sign attached to or erected against a wall of a building or structure with the exposed face of the sign in plane approximately parallel to the plane of the wall.

Sign, Window: A sign that is installed inside, painted upon or placed against a window for purposes of viewing from outside the premises, not including merchandise located in a window display.

Site Plan: A scaled plan for proposed development that contains any information that reasonably may be required in order that an informed decision can be made by the approving authority.

Smoke: Small gas-borne particles that are formed as a result of the incomplete combustion of materials containing carbon, and that form a visible plume in the air.

Solar Collector: A device that captures solar radiation for use as a source of energy. **(Ord. No. 2020-07; 11-20-20)**

Solar Energy Equipment: Items including but not limited to solar collectors, lines, pumps, batteries, inverters, mounting brackets, framing, and/or foundation used for or intended to be used for the collection and conversion of solar radiation into energy suitable for use. **(Ord. No. 2020-07; 11-20-20)**

Solar Energy Generation Facility: A facility consisting of ground mounted solar collectors and supplementary solar energy equipment used to produce electric power and is either the stand alone use or one of the principal uses for the parcel of land on which it is located. In a Solar Energy Generation Facility, the electric power may be used onsite, but its primary purpose is to generate electric power for offsite utility bill credit, subscription sale, retail sale, or wholesale. The term includes ground mounted solar collectors and supplementary solar energy equipment that is accessory to a residential or nonresidential use that covers more than **two (2) acres** and is designed for onsite use by the owner or tenant of the residential or nonresidential use to reduce payments to the utility company. **(Ord. No. 2020-07; 11-20-20)**

Solar Private: Ground mounted solar collectors and supplementary solar energy equipment that is accessory to a residential or nonresidential use and covers an area no more than **two (2) acres**. In no instance can private solar be the only use on a parcel. Private solar is designed for onsite use by the owner or tenant of the residential or nonresidential use to reduce payments to the utility company. **(Ord. No. 2020-07; 11-20-20)**

Solid Screen: Either an earth berm, hill, solid wood fence, wall or a densely planted row of shrubs that cannot be seen through in any season.

Special Flood Hazard Area (SFHA): That area of land that would be inundated by the base flood.

Special Use: A use of land needing approval by the City Council. It may include but not be limited to public and quasi-public uses affecting the public interest; uses that have a unique, special, or unusual impact upon the use or enjoyment of neighboring property; and uses that affect planned development.

Specified Anatomical Areas: "Specified Anatomical Areas" shall mean human genitals, anus, cleft of the buttocks, or the female breast.

Specified Sexual Activity: "Specified Sexual Activity" means any of the following:

- (A) sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
- (B) excretory functions as a part of or in connection with any of the activities described in (1) above.

Speedway: A racecourse used for racing automobiles or motorcycles.

Sportsman's Club: A recreational area or facility, and its accessory retail sales and services, containing space used for hunting, shooting or firing rifles, shotguns, pistols, skeet or traps, fishing and other similar sports.

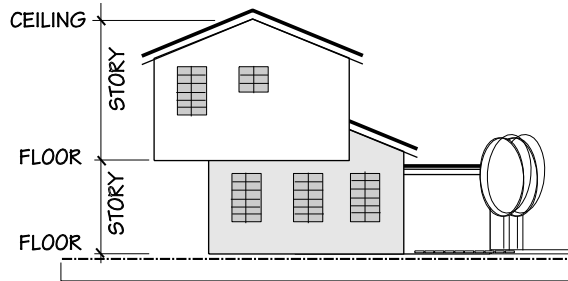
Stable, Horse: A structure that is used for the shelter or care of horses.

Stadium: A structure or facility designed, intended, or used primarily for athletic events and containing seating and parking for spectators of those events, but not including a raceway or dragstrip.

State: The State of Illinois.

Steep slopes: Those areas with slopes that equal or exceed **thirty-five percent (35%)** or 2.85:1.

Story: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.



Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than **three (3) feet** above the top floor level and in which space not more than **two-thirds (2/3)** of the floor area is improved for use. A half-story containing an independent apartment or living quarters shall be counted as a full story.

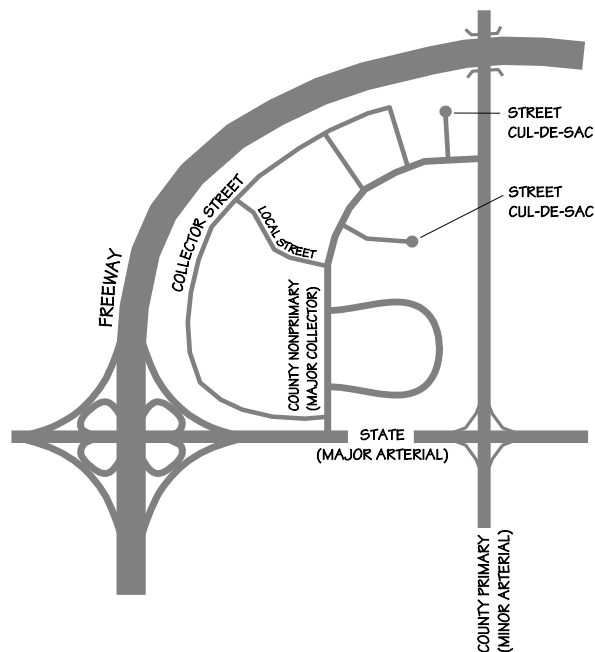
Stream: An open body of running water flowing continuously or intermittently. Perennial and intermittent streams are designated in accordance with 7.5 minute topographic maps of the U.S. Geological Survey.

Street: All property dedicated for public or private street or roadway purposes.

Street, State: A state street or roadway which is classified as a major arterial in that it has as its primary function inter-community and intra-metro area traffic movement. The secondary function of this roadway is to provide access to land.

Street, County, Primary: A county street or roadway which is classified as a minor arterial in that it has as its primary function inter-community traffic movement. The secondary function of this roadway is to provide access to land.

Street, Local: A street which is classified as local in that it has as its primary function direct access to and/or from streets, alleys and abutting properties.



Structure: Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for housing, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, parking decks, parking lots, walkways, paths, swimming pools, tennis courts, poles, pipelines, transmission lines, tracks, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and other accessory construction.

Structure, Non-residential: Any principal structure or accessory structure not intended for use as a dwelling including, but not limited to commercial, industrial, institutional, and agricultural uses, and any structure accessory to a dwelling which is greater than **two thousand (2,000) square feet**.

Structure, residential: Any structure intended for use as a dwelling, and any structure accessory to a dwelling which is less than **two thousand (2,000) square feet** in size.

Subdivider: Any person, firm, association, corporation, trust or any other legal entity who commences proceedings under these regulations to affect a subdivision of land pursuant to **Chapter 20** of the City's Code.

Subdivision: The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development; provided that a division of land which may be ordered or approved by a court or affected by testamentary or intestate provisions, shall not be deemed a subdivision. The term includes re-subdivision, and when appropriate to the context, shall relate to the process of subdividing the land subdivided. However, divisions exempted from the provisions of the Illinois Plat Act (**765 ILCS 205/1 et seq.**) are not deemed subdivisions for the purposes of these regulations.

Substantial Improvement: Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds **fifty percent (50%)** of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to the repair or reconstruction. "Substantial improvement" shall not include, however, any repair or improvement required to bring the structure into compliance with existing State or City health, sanitary, safety, or building code specifications necessary to ensure safe habitation of the structure.

Swimming Pool: A man-made rigid or semi-rigid receptacle for water, whether intended for indoor or outdoor use, having a depth at any point of **two (2) feet** or more and with a water surface area of **one hundred twenty-five (125) square feet** or greater, which is used or intended to be used for swimming, wading, bathing, immersion, or partial immersion of human beings, and which is constructed, installed and maintained in or above ground.

Tattoo Parlor: An establishment where pigment is inserted under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin. The term "tattoo parlors" shall also include body piercing parlors.

Tavern: An establishment used primarily for the sale or dispensing of malt, vinous, or other alcoholic beverages for on-site consumption and where food may be served or sold only as an accessory to the principal use.

Telecommunications Carrier: A telecommunications carrier as defined in the Public Utilities Act (220 ILCS 5/13-202) as of **January 1, 2012**.

Telecommunications Carrier Facility: That part of the signal distribution system used or operated by a telecommunications carrier under a license from the FCC consisting of a combination of improvements and equipment including (i) one or more antennas, (ii) a supporting structure and the hardware by which antennas are attached; (iii) equipment housing; and (iv) ancillary equipment such as signal transmission cables and miscellaneous hardware.

Temporary Use: A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time, and does not involve the construction or alteration of any permanent structure.

Thoroughfare Plan: A part of the comprehensive plan which sets forth the general location, alignment and dimensions and the identification and classification of existing and proposed streets.

Toxic Matter: Any combination of pollutants, including disease-carrying agents, that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, can cause death or disease, mutations, deformities, or malfunctions in such organisms or their offspring and that adversely affect the environment

Transitional Bufferyard (TBY): A landscaped area located within a side or rear yard which buffers incompatible uses from each other.

Use: The purpose or activity for which the land, or any structure thereon, is designed, arranged, or intended, or for which it is occupied or maintained.

Use, Permitted: Any use which is or may be lawfully established in a particular district or districts, provided it conforms with all requirements of these regulations for the district in which such use is located.

Use, Principal: The primary purpose or function that a lot serves or is proposed to serve, as distinguished from an accessory use. In agricultural districts the principal use may be both the agricultural and residential use. A principal use may either be permitted or special.

Valley: A stretch of lowland lying between hills usually comprising a drainage area; a gully or ravine.

Variance: Permission to depart from the literal requirements of these regulations.

Variance, Hardship: A rationale for the departure from the literal requirements of these regulations when their strict enforcement would present practical difficulties in the use of a property.

Vehicle: A self-propelled device with **two (2)** or more axles used for the transportation of people or goods over land surfaces that weighs over **eight thousand (8,000) pounds**.

Vehicle Body Repair: The business of auto body repair for vehicles and automobiles. The term may include automobile mechanical repair, vehicle mechanical repair, as well as structural repair or appearance alteration (e.g., painting or detailing).

Vehicle Mechanical Repair: The business of mechanical repair work and servicing of automobiles and vehicles, including fast service, tune-up, and lubricating facilities, but specifically excluding body work or painting.

Vehicle Sales and Rental: The sale, rental or display of motor vehicles, boats, trailers, recreational vehicles, mobile homes, or farm equipment, not including salvage operations or scrap operations.

Vibration: The periodic displacement, measured in inches, of earth at designated frequency of cycles per second.

Viewing Room: "Viewing Room" shall mean the room, booth, or area where a patron of adult use would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

Warehousing, Mini-Storage: An establishment whose primary purpose is to provide space to the general public that may be used for the storage of goods and/or materials and made up of groups of individual units contained within **one (1)** or more structures.

Watercourse: Any river, stream, creek, brook, branch, natural or artificial depression, slough, gulch, draw, ditch, channel, circuit, conduit, culvert, swale, gully, ravine, wash, or natural or man-made drainage-way, which has a definite channel, bed and banks, in or into which stormwater runoff and floodwater flow either regularly or intermittently.

Wetland: An area that is permanently or periodically inundated or saturated by surface water or groundwater or otherwise has hydric soil conditions at a frequency and duration sufficient to support, or that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The term "wetland" includes all wetlands that are defined as such by federal and/or state statutes and regulations for the purposes of regulating development or other activities within wetlands.

Wholesale Establishments: The sale of goods and materials in large quantity primarily for resale to other sellers or contractors, but not including heavy industry.

Wind Energy Conversion System: Any device such as a wind charger, windmill, or wind turbine that converts wind energy to a form of usable energy. Also referred to in these regulations as "WECS."

Window Display: **One (1)** or more objects set inside a building in a display case or on a window ledge which displays merchandise or relates to services offered but which is not affixed to any window.

Working Day: A Monday, Tuesday, Wednesday, Thursday or Friday, excluding holidays when the City courthouse is scheduled to be closed, such as Christmas.

Yard: An open space that lies between a building and a lot line.

Yard, Front: An area extending the full width of the parcel that is created by the required road setback. This area is from the right-of-way line or front property line to the building line.

Yard, Rear: An Area extending the full width of the parcel that is created by the required rear setback. This area is from the rear property line to the rear setback line.

Yard, Side: An area extending the full depth of the parcel that is created by the required side setback. This area is from the side property line to the side setback line.

Yard Side: An area extending the full depth of the parcel that is created by the required side setback. This area is from the side property line to the side setback line.

Yard, Transitional Buffer: A landscaped yard which provides increased visual separation or screening between incompatible land uses.

Zoning Administrator: The officer of the City appointed to administer the provisions of this Code.

Zoning Board of Appeals: The **seven (7) member** board appointed by the Mayor of the City, with the advice and consent of the City Council.

Zoning Certificate: A certificate issued by the Zoning Administrator certifying that a proposed or existing lot, proposed or existing structures thereon, and/or proposed or existing use complies with the requirements of this Code; or certificate issued by the Zoning Administrator for any zoning lot which has a nonconforming use or structure which may be maintained because relief has been granted from any of the provisions of this Code due to one or more of the following:

- (A) Its establishment as a lawful, nonconforming building;
- (B) Its establishment as a lawful special use;
- (C) The granting of variation by the Zoning Board of Appeals or the City Council, or;
- (D) Court action.

Zoning Districts: The districts into which the City of Elmwood, Illinois has been divided as set forth on the Zoning District Map.

Zoning District Map: The Official Zoning Map or series of Official Zoning Maps, showing zoning district boundaries for the City.

Zoo: A place where wild animals are kept, often in combination of indoor and outdoor spaces, and are viewed by the public.

ARTICLE III - DECISION MAKING AND ADMINISTRATIVE BODIES

40-3-1 **CITY COUNCIL.** The City Council shall have all the authority granted by State law, including the following powers and duties in regard to these regulations:

- (A) To approve the Mayor’s appointments to the Zoning Board of Appeals (hereinafter “ZBA”).
- (B) To adopt, review, and amend the comprehensive plan of the City as it may deem necessary and appropriate.
- (C) To initiate, review, and adopt amendments to the text of these regulations and to the Zoning District Map after recommendation by the ZBA.
- (D) To review, grant, or deny applications for special use permits after recommendation by the ZBA.
- (E) To take such other action not delegated to the ZBA as the City Council may deem desirable and necessary to implement the provisions of these regulations and the comprehensive plan.

40-3-2 **ZONING BOARD OF APPEALS.**

(A) **Creation.** There is hereby established a Zoning Board of Appeals (hereinafter “ZBA”).

(B) **Powers and Duties.** The ZBA shall have the following powers and duties:

- (1) To review and analyze all information filed with the Zoning Administrator in each case prior to all public hearings, and if deemed necessary, to personally inspect the physical property which is the subject of the petition.
- (2) To attend all hearings and deliberative sessions. Those members not present at the hearing shall not participate in the decision of the case.
- (3) To make complete detailed findings of fact of each case, when required, and furnish such findings to the Secretary.
- (4) To hear, review, and make recommendations to the City Council concerning special use permits in accordance with the provisions of **Section 40-5-3 (“Special Use Permits”)** of this Code.
- (5) To hear, review, and make recommendations to the City Council concerning amendments to the text of these regulations and the Zoning District Map in accordance with the provisions of **Section 40-5-4 (“Text and Map Amendments”)** of this Code.
- (6) To hold hearings, review, and make decisions in regard to applications for variances in accordance with the provisions of **Sections 40-5-5 (“Variances”) and 40-5-7 (“Telecommunications Carrier Facilities-Variances”)** of this Code.
- (7) To hear, review, and decide appeals from administrative decisions made by the Zoning Administrator or other administrative official concerning any order, requirement, or determination in accordance with the provisions of **Section 40-5-6 (“Appeals of Administrative Decisions”)** of this Code.
- (8) To incur expenditures as shall be authorized by the City Council.

- (9) To adopt such rules to govern its proceedings as are necessary for the administration of its responsibilities, not inconsistent with State law or these regulations.

(C) **Powers and Duties of the Chairman and the Vice Chairman.** The Chairman of the ZBA, and in his absence, the Vice Chairman, shall have the following powers and duties:

- (1) To supervise the affairs of and preside at all meetings of the ZBA.
- (2) To appoint such committees and sub-committees of the ZBA as may be necessary to carry out the purposes of the ZBA and to be an ex-officio member of all such committees.
- (3) To administer the oaths and compel the attendance of a witness before the ZBA.

(D) **Conflict.** Any member of the ZBA who has a direct or indirect interest in a matter before the ZBA, or who lives within **five hundred (500) feet** of any property which is the subject of ZBA action, shall disclose such fact at the hearing, prior to voting on the matter. If such member has a direct or indirect financial interest in such property, he shall not sit with the ZBA nor act with the ZBA in such matter under consideration.

(E) **Membership, Appointment, Removal, Terms and Vacancies.**

- (1) The ZBA shall be composed of **seven (7) members** appointed by the Mayor, with the advice and consent of the City Council.
- (2) The Mayor shall name one of the members of the ZBA as Chairman, and in the case of a vacancy, he shall name a successor Chairman. The other officers of the ZBA shall be a Vice Chairman named by the ZBA, and a Secretary, who shall be the Zoning Administrator (but who shall not be a member of the ZBA).
- (3) The terms of the initial members of the ZBA shall be as follows: **one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, one (1) for five (5) years, one (1) for six (6) years and one (1) for seven (7) years.**
- (4) After the term of each initial member, all members shall serve a term of **five (5) years.**
- (5) Members may be removed for cause prior to the expiration of their term of appointment by majority vote of the City Council, after a public hearing and upon giving **ten (10) days notice** thereof.
- (6) In the event of a vacancy caused by the death, removal for cause, or resignation of a member of the ZBA, a successor shall be named by the Mayor for the unexpired term, subject to confirmation by the City Council at its next meeting.

(F) **Quorum and Necessary Vote.**

- (1) Except as provided in **Section 40-3-2(F)(4)** below, no hearing of the ZBA may be called to order, nor may any business be transacted without a quorum consisting of **four (4) members** of the ZBA being present. The Chairman shall be considered and counted as a member.
- (2) All questions which arise at meetings shall be determined by the votes of the majority of members present.

- (3) The concurring vote of at least **four (4) members** shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, to decide in favor of the applicant in any matter upon which it is required to pass under this Code or to effect any variation in this Code or to recommend any variation or modification in this Code to the City Council.

(G)

Hearing Procedures.

- (1) **Applicability.** The procedures set out in this Subsection shall be applicable to all public hearings before the ZBA that are required by any provision of these regulations.

- (2) **Hearings.**

- (a) Meetings of the ZBA shall be held at such dates and times that the ZBA determines. The ZBA shall not have a regular meeting schedule.
- (b) In the event that the Chairman and Vice Chairman of the ZBA are absent during a meeting, the members present shall select one of the members present to act as Chairman pro tem.
- (c) If a matter is postponed due to a lack of a quorum or any other reason, the Chairman of the ZBA shall continue the meeting to be held at the same location at the next available meeting date or as otherwise agreed to by the petitioner and the ZBA. The Secretary shall notify all members of the date of the continued meeting.
- (d) All meetings and hearings of the ZBA shall be open to the public.
- (e) Public hearings shall be set for a time certain.

- (3) **Hearing Notice.**

- (a) **Provision and Distribution of Notice.**

- 1. A copy of the notice shall be sent by mail to each owner of record, if different from the applicant, of any land on which development is proposed;
- 2. At least **fifteen (15) days** before the hearing before the ZBA, a copy of the notice shall be sent by mail to any person owning property adjacent to or immediately across any street, alley, or public right-of-way from the petitioned property.
- 3. At least **fifteen (15) days** before the hearing before the ZBA, a weatherproof sign at least **four (4) square feet** in surface area shall be conspicuously posted along each right-of-way of each property that is the subject of a request before the ZBA. Said sign shall remain posted until the conclusion of the public hearing. Failure to comply with the provisions of this Subsection shall not render the public hearing invalid, provided that good faith effort was made to comply; and
- 4. A copy of the notice shall be posted at City Hall.

(b) **Notice Content.** The notice to be published and mailed shall contain at a minimum the following.

1. The location, date, and time of the hearing.
2. A summary of the petition including the petitioner's name.
3. The particular location of the property for which the request is made by legal description, and street address. If no street address exists, then by locating such real estate with reference to any well-known landmark, highway, road, thoroughfare, or intersection. The notice shall also include the parcel identification number (PIN).
4. A statement as to whether the applicant is acting for himself or in the capacity of an agent, an alter ego, or a representative of a principal. The applicant shall include the name and address of the true principal.
5. For Special Uses and Variances, a statement as to whether the applicant is a corporation, and if a corporation, disclose the correct names and addresses of all officers and directors and of all stockholders or shareholders owning any interest in excess of **twenty percent (20%)** of all outstanding stock or shares of such corporation.
6. For Special Uses and Variances, a statement as to whether the applicant, or his principal if other than the applicant, is a business or an entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity.
7. For Special Uses and Variances, a statement as to whether the applicant, or his principle if other than the applicant, is a partnership, a joint venture, a syndicate, or an unincorporated voluntary association, and if so, include the names and addresses of all partners or members of the partnership, joint venture, syndicate, or unincorporated voluntary association.

(c) **Notice Publication.**

1. At least **fifteen (15) days notice** of the time and place of such public hearing before the ZBA shall be published in a newspaper of general circulation published in the City.
2. Notice shall be mailed to the entities identified in Subsection a. ("Provision and Distribution of Notice"), above at least **fifteen (15) days** before the hearing before the ZBA.

(4) **Hearing Location.** Public hearings for specific proposals, including variances, special uses, and map amendments, shall be held at the Elmwood City Hall.

- (5) **Hearing Conduct.** Hearings shall be conducted pursuant to the Rules of Order adopted by the ZBA.
- (6) **Action by Zoning Board of Appeals.**
 - (a) **General.** Except as otherwise provided herein, the ZBA shall render its decision as soon as practicable after the close of the public hearing on the matter.
 - (b) **Findings.** All decisions of the ZBA shall be in writing and shall include at least the following:
 - 1. Findings relevant to the standards governing the application for development approval under construction.
 - 2. Conclusions regarding each standard applicable to the proposed development; and
 - 3. A recommendation or final decision.
 - (c) **Notification.** Notification of all recommendations and decisions shall be mailed to the applicant and the owner of record if different from the applicant.
- (H) **Order of Business.** All meetings of the ZBA shall proceed as follows:
 - (1) Call meeting to order and declaration of quorum.
 - (2) Announce hearing procedures and deliberation date.
 - (3) Call items on agenda as published.
 - (4) Unfinished business.
 - (5) New business.
 - (6) Adjournment.
- (I) **Secretary.**
 - (1) The Zoning Administrator shall act as the Secretary to serve the ZBA and shall attend all meetings and hearings of the ZBA, but shall not be a member of the ZBA.
 - (2) The Secretary shall keep minutes of all proceedings of the ZBA, which minutes shall be a summary of all proceedings before the ZBA, attested to by the Secretary, and which shall include the vote of each member upon every question, or if absent or failing to vote, indicating such facts. The minutes shall also include the names and addresses of all persons appearing before the ZBA.
 - (3) The minutes shall be approved by a majority of the members of the ZBA voting.
 - (4) Every rule, regulation, or amendment, every repeal thereof, and every order, requirement, decision, or determination of the ZBA shall be immediately filed in the office of the ZBA at the office of the Zoning Administrator and shall be a public record.
 - (5) The Secretary shall maintain a Docket of Cases and shall note each appeal or application. Each case shall be numbered consecutively and all records relating thereto shall carry such number and shall be heard in the order prescribed by the Chairman.
 - (6) The Secretary shall maintain all records of ZBA meetings, hearings and proceedings, shall conduct the official correspondence of the ZBA, and shall administer the clerical work of the ZBA.
 - (7) All records shall be a public record and the Secretary shall be the custodian of the files of the ZBA.

(J) **Consultant.** The Zoning Administrator, or his delegate, shall also be a consultant to the ZBA and shall attend public hearings of the ZBA. The consultant's reports shall be included in the minutes and shall be a part of the record of the ZBA.

(K) **Legal Consultant.** Legal Counsel for the City, shall be consulted on all legal questions, parliamentary questions, and interpretations of questions where the powers of the ZBA are not clearly defined, and shall generally serve as Legal Counsel to the ZBA.

(L) **Agenda Limits.** Any Hearing conducted by the ZBA shall be limited to a maximum of **twelve (12)** new cases plus any continuations or deliberations rescheduled from a previous hearing. If more than **twelve (12) cases** are filed with the Zoning Administrator for a hearing, the first **twelve (12) cases** filed in chronological order shall be scheduled for the hearing. The remaining cases shall be scheduled for the next available hearing.

40-3-3 ZONING ADMINISTRATOR.

(A) **General.** The Zoning Administrator shall perform the planning functions for the City, shall provide technical support and guidance for action on applications for development approval, and shall perform such other functions as may be requested by the City Council and the ZBA. The Zoning Administrator shall coordinate the review of all applications for development approval with other City departments.

(B) **Creation and Appointment.** The Zoning Administrator shall be appointed by and serve at the pleasure of the City Council.

(C) **Jurisdiction, Authority and Duties.** In addition to the jurisdiction, authority and duties which may be conferred upon the Zoning Administrator by other ordinances, the Zoning Administrator shall have the following jurisdiction, authority and duties:

- (1) Act as the enforcing officer of these regulations and make, or cause to be made, periodic inspections of all work authorized by permits issued in accordance with these regulations and make, or cause to be made, investigations of violations of these regulations and cause any such violations to be corrected.
- (2) Serve as both the Secretary and a consultant to the ZBA and inform such body of all facts and information at his disposal with respect to applications for development approval or any other matters brought before it.
- (3) Assist in the preparation and review of the City's comprehensive plan, any special area plans, these regulations, and any proposed amendments thereto.
- (4) Maintain the Zoning District Map.
- (5) Maintain development review files and other public records of all official actions taken by the City with respect to the administration and enforcement of these regulations.
- (6) Review all applications for permits for the construction, enlargement, structural alteration, conversion, or relocation of any building or structure.
- (7) Review and recommend approval or disapproval of applications for special use permits, variances and amendments to these regulations.
- (8) Issue zoning certificates and certificates of occupancy, and inspect, if necessary, the building for which the certificate applies.
- (9) Evaluate and act upon claims of nonconforming uses and structures and issue zoning certificates.

- (10) Issue and sign pre-application conference letters of understanding in accordance with these regulations.
- (11) Determine whether an application for development approval is materially different from a previously denied application.
- (12) Issue written notice to the person responsible for any violation of these regulations.
- (13) Take, or cause to be taken, any other action necessary to ensure compliance with, and prevent the violations of, the provisions of these regulations.
- (14) Coordinate all local, regional, state and federal environmental and other land development permitting processes affecting development in the City.
- (15) Review and evaluate all planned transportation improvements for the City with the City's Street and Water Superintendent.
- (16) Establish such rules of procedure as are necessary for the administration of his responsibilities under these regulations.
- (17) Whenever requested by the City Council or by his own initiative, conduct or cause to be conducted, surveys, investigations and studies, and prepare or cause to be prepared, such reports, maps, photographs, charts and exhibits as may be requested or desired.

(D) **Additional Duties Concerning Flood Insurance Studies.** In addition to those duties and powers set forth in Subsection (C), above, the Zoning Administrator shall have the following powers and duties in areas designated as "A" zones by the Flood Insurance Study:

- (1) Periodically inspect buildings, structures, and uses of land to determine compliance with the provisions set forth for floodplain management.
- (2) Notify in writing any person responsible for violating any provisions set forth for floodplain areas, indicating the nature of the violation and ordering action that is necessary to correct such violations.
- (3) Order a discontinuance of the illegal construction of buildings or structures below the highest known flood level.
- (4) Maintain a current file of all permits, certificates, notices of violation, discontinuances or removals for such time as necessary to ensure a continuance compliance with the provisions of these regulations, and on request, provide information to any person having proprietary or tenancy interest in any specific property.

ARTICLE IV - TELECOMMUNICATIONS CARRIER FACILITIES AND WIND ENERGY CONVERSION SYSTEMS

40-4-1 TELECOMMUNICATIONS CARRIER FACILITIES.

(A) **Definitions.** The following definitions shall apply only to this Section and to and **Section 40-5-5:**

- (1) **Residential zoning district.** A zoning district that is designated under these regulations and is zoned predominantly for residential uses.
- (2) **Non-residential zoning district.** All zoning districts designated under these regulations.
- (3) **Facility.** This term shall have the same meaning as "Telecommunications Carrier Facility" as defined in **Section 40-2-2.**
- (4) **Antenna.** An antenna device by which radio signals are transmitted, received or both.
- (5) **Supporting structure.** A structure, whether an antenna tower or another type of structure, that supports one or more antennas as part of a facility.
- (6) **Qualifying structure.** A supporting structure that is (i) an existing structure, if the height of the facility, including the structure, is not more than **fifteen (15) feet** higher than the structure just before the facility is installed, or (ii) a substantially similar, substantially same-location replacement of an existing structure, if the height of the facility, including the replacement structure, is not more than **fifteen (15) feet** higher than the height of the existing structure just before the facility is installed.
- (7) **Equipment housing.** A combination of one or more equipment buildings or enclosures housing equipment that operates in conjunction with the antennas of a facility, and the equipment itself.
- (8) **Height of a facility.** The total height of the facility's supporting structure and any antennas that will extend above the top of the supporting structure; however, if the supporting structure's foundation extends more than **three (3) feet** above the uppermost ground level along the perimeter of the foundation, then each full foot in excess of **three (3) feet** shall be counted as an additional foot of facility height. The height of a facility's supporting structure is to be measured from the highest point of the supporting structure's foundation.
- (9) **Facility lot.** The zoning lot on which a facility is or will be located.
- (10) **Principal residential building.** This word has its common meaning but shall not include any building under the same ownership as the land of the facility lot. "Principal residential building" shall not include any structure that is not designed for human habitation.
- (11) **Horizontal separation distance.** The distance measured from the center of the base of the facility's supporting structure to the

point where the ground meets a vertical wall of a principal residential building.

- (12) **Lot line set back distance.** The distance measured from the center of the base of the facility's supporting structure to the nearest point on the common lot line between the facility's lot and the nearest residentially zoned lot. If there is no common lot line, the measurement shall be made to the nearest point on the lot line of the nearest residentially zoned lot without deducting the width of any intervening right of way.

(B) **Authorized Facilities.** The following provisions shall apply to all facilities established after **January 1, 1998**. A facility is permitted in any zoning district subject to the following:

- (1) A facility shall not be located on a residentially zoned lot that is less than **two (2) acres** in size and that are used for residential purposes unless a variation pursuant to **Section 40-5-5** is granted by the City Council. The size of a lot shall be the lot's gross area in square feet without deduction of any unbuildable or unusable land, any roadway, or any other easement; and
- (2) Unless a height variation is granted by the City Council pursuant to **Section 40-5-5**, the height of a facility shall not exceed **seventy-five (75) feet** if the facility will be located in a residential zoning district or **two hundred (200) feet** if the facility will be located in a non-residential zoning district. However, the height of a facility may exceed the height limit in this paragraph, and no height variation shall be required, if the supporting structure is a qualifying structure; and
- (3) The improvements and equipment of the facility shall be placed to comply with the requirements of this Section. If the supporting structure is an antenna tower other than a qualifying structure then (i) if the facility will be located in a residential zoning district, the lot line set back distance to the nearest residentially zoned lot shall be at least **fifty percent (50%)** of the height of the facility's supporting structure or (ii) if the facility will be located in a non-residential zoning district, the horizontal separation distance to the nearest principal residential building shall be at least equal to the height of the facility's supporting structure, unless a variation pursuant to **Section 40-5-5** is granted by the City Council.
- (4) All facilities must observe the following minimum setback standards from the lot line:
 - (a) Side: 10'
 - (b) Rear: 10'
 - (c) Front: 15' in all districts except A-1 District; 10' in A-1 District.

40-4-2 WIND ENERGY CONVERSION SYSTEMS.

(A) **Purpose.** It is the purpose of this Code to regulate the siting and installation of wind energy conversion systems. The promotion of safe, effective and efficient use of wind energy systems will be balanced against the need to preserve and protect public health and safety.

(B)

Definitions.

- (1) **Applicant.** The person or entity filing an application under this Code.
- (2) **Commercial Wind Energy System.** A wind energy conversion system (WECS) or combination of wind energy conversion systems that is designed to have a capacity in excess of the amount needed for residential and agricultural uses and that has a combined nameplate capacity of greater than 100 kW.
- (3) **Owner.** The individual or entity that intends to own and operate the wind energy system in accordance with this Code.
- (4) **Small Wind Energy System (non-commercial).** A wind energy conversion system consisting of a wind turbine, a tower, and associated controls or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
- (5) **Tower.** The monopole, freestanding, or guyed structure that supports a wind generator.
- (6) **Total Height.** The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (7) **Wind Turbine.** A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer.

(C)

Standards.

- (1) **Commercial Wind Energy Conversion Systems.**
 - (a) **Minimum Conditions for Special Use Permit.**
 - 1. **Design Safety Certification.** The safety of the design of all WECS towers shall be certified by a licensed Professional Engineer. The standard for certification shall be good engineering practices and shall conform to all the City's officially adopted codes.
 - 2. **Controls and Brakes.** All WECS projects shall be equipped with Manual and Automatic Controls and mechanical brakes to limit rotation of blades to a speed below the designed limits of a WECS. For purposes of this Section, "Manual and Automatic Controls" mean controls which give protection to power grids and limit rotation of a WECS' blades to below the designed limits of the conversion system. The Professional Engineer or Authorized Factory Representative must certify that the rotor and over speed control design and fabrication conform to good engineering practices. No changes or alterations from certified design shall be permitted unless accompanied by a Professional Engineer's or the Authorized Factory Representative's statement of certification.
 - 3. **Color.** Towers and blades shall be painted a non-reflective, unobtrusive color that blends into the

- surrounding landscape to the greatest extent possible.
4. **Lighting.** Lighting for the towers shall be constructed only in accordance with the minimum requirements and standards allowed through the FAA or other regulatory authority in an effort to minimize the visual impact of the structures.
 5. **Compliance with FAA.** It shall be the responsibility of the person in charge of the WECS project to complete the proper FAA applications and obtain the proper permits for the WECS project. It shall also be the responsibility of the person in charge of the WECS project to obtain a determination of no significant impact to air navigation from the FAA.
 6. **Warnings.** A visible warning sign of "High Voltage" must be placed at the base of all WECS projects. The sign must have at a minimum **six (6) inch** letters. Such signs shall be located a maximum of **three hundred (300) feet** apart and at all points of site ingress and egress.
 7. **Climb Prevention.** All WECS project towers or poles must be unclimbable by design or protected by anti-climbing devices such as:
 - a. Fences with locking portals at least **six (6) feet** high;
 - b. Anti-climbing devices **twelve (12) feet** from base of pole; or
 - c. Anchor points for guy wires supporting the tower shall be enclosed by a **six (6) foot** high fence or shall be located within the confines of a yard that is completely fenced.
 8. **Compliance with Additional Regulations.** It shall be the responsibility of the person in charge of the WECS project to contact the FCC and FAA regarding additional permits necessary or any other applicable Federal or State regulations for the installation of a WECS project prior to the public hearing before the Zoning Board of Appeals.
 9. **Height.** Wind generator machine height must comply with all FAA regulations.
 10. **Installation Certification.** A licensed Professional Engineer shall certify that the construction and installation of the WECS project meets or exceeds the manufacturer's construction and installation standards.
 11. **Migratory Birds.** An avian study shall be conducted by a qualified third-party professional, such as an ornithologist or wildlife biologist, to

determine if there is any potential impact the WECS project may present to migratory birds. The study must provide assurances that the WECS project does not negatively impact the path of migratory birds. The results of the study shall be made available at the hearing before the Zoning Board of Appeals.

12. **Roads.** Any proposed access roads that will be used for construction purposes shall be identified and approved by the City's Street and Water Superintendent, prior to the hearing before the Zoning Board of Appeals.

Any road damage caused by the transport of the facility's equipment, the installation, or the removal, must be completely repaired to the satisfaction of the City's Street and Water Superintendent.

13. **Setbacks.**
- a. All WECS must observe a minimum setback from front, rear, and side lot lines of 1.1 times the WECS total height. For the A-1 and A-2 Districts, property lines that are shared with other properties included in the same WECS development may forego this requirement, provided written acceptance of this waiver is obtained from all affected property owners prior to or at the public hearing before the Zoning Board of Appeals.
 - b. All WECS Towers shall be at least **seven hundred fifty (750) feet** from any adjoining property's dwelling unit, and no less than 1.1 times the total height from the applying property owner's dwelling unit.
 - c. All WECS Towers shall be set back a distance of at least 1.1 times the WECS total height from the third party transmission lines and telecommunications carrier facilities.
 - d. Any variance of the applicable setbacks requirements, whether required in this Article or elsewhere in these regulations, shall be recorded with the Peoria County Recorder of Deeds.

14. **Building Permit.** All wind energy conversion systems require a building permit prior to the initiation of construction. Owners must comply with all applicable building codes adopted by the City. A set of drawings and engineering analysis that conforms to manufacturer's standards, which has

been certified by a licensed Professional Engineer, shall be submitted with the building permit application.

(2) **Small Wind Energy Systems (non-commercial).**

- (a) **Installation.** All non-commercial wind energy systems shall be installed per the manufacturer's standards. The standards must include compliance with all of the City's officially adopted codes.
- (b) **Height.** The maximum height must be compliant with FAA standards.
 - 1. Except for roof-mounted Small Wind Energy Conversion Systems, the total height of a Small Wind Energy Conversion System shall not exceed **one hundred fifty (150) feet** subject to setback limitations contained in **Section 40-4-2(C)(2)c.** below.
 - 2. The height of a roof-mounted small wind energy system shall not exceed the maximum height requirement for the zoning district in which it is located. For determining height, small WECS located on a structure are considered part of that structure.
- (c) **Setbacks.** All WECS must observe a minimum setback from front, rear, and side lot lines of 1.1 times the WECS total height. For the A-1 and A-2 Districts, property lines that are shared with other properties included in the same WECS development may forego this requirement, provided written acceptance of this waiver is obtained from all affected property owners prior to or at the public hearing before the Zoning Board of Appeals.
- (d) **Building Permit.** All wind energy conversion systems require a building permit prior to the initiation of construction. Owners must comply with all applicable building codes adopted by the City. A set of drawings and engineering analysis that conforms to manufacturer's standards, which has been certified by a licensed Professional Engineer, shall be submitted with the building permit application. For roof-mounted small wind energy systems, the analysis shall certify that the roof structure is sufficient to support the system. All applicants shall supply an electrical diagram and any necessary approvals from utility providers. In order for an existing concrete foundation to be reused, a licensed Professional Engineer must submit specifications stating that the existing base is sufficient to accommodate the new loads that will be applied to the foundation.
- (e) **Lighting.** Lighting for towers shall be constructed only in accordance with the minimum requirements and standards allowed through the FAA or other regulatory authority in an effort to minimize the visual impact of the structures.

- (f) **Color.** Towers and blades shall be painted a non-reflective, unobtrusive color that blends into the surrounding landscape to the greatest extent possible.
- (g) **Warnings.** A visible warning sign of "High Voltage" must be placed at the base of all WECS projects. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system, visible from any public road shall be prohibited.

(D) **Maintenance and Operation.**

- (1) **Annual Inspection.** Every commercial WECS project must be inspected annually by an Authorized Factory Representative to certify that it is in good working condition and not a hazard to the public. A copy of said annual inspection must be filed with the City within **fifteen (15) days** after the inspection report is received by the WECS project owner/manager.
- (2) **Interference.** If the Authorized Factory Representative determines that the commercial WECS project causes severe interference with microwave transmissions, residential television interference or radio reception, the commercial WECS owner must take commercially reasonable steps to correct the problem. Evidence that the Authorized Factory Representative has determined that no such interference will occur or that interference has been corrected must be presented at the public hearing before the Zoning Board of Appeals. A small wind energy conversion system must submit to the City information from the manufacturer that certifies that the system will not interfere with microwave transmissions, residential television or radio reception.
- (3) **Fire Risk.** All WECS projects must adhere to all applicable electrical codes and standards and must remove fuel sources, such as vegetation, from the immediate vicinity of electrical gear and connections. Every WECS project must utilize twistable cables on turbines.

(E) **Noise Levels.** Noise levels shall be regulated by the Illinois Pollution Control Agency rules and regulations and the applicant shall certify that applicant's facility is in compliance with the same. Applicant shall provide certification from the manufacturer that the noise level will not exceed **sixty (60) decibels** as measured at the nearest property line.

(F) **Liability Insurance.** The WECS project owner shall maintain a current insurance policy to cover installation and operation of the WECS project. The amount of the policy shall be established as a condition of permit approval. The liability insurance shall be for an amount of **One Hundred Thousand Dollars (\$100,000.00)** or greater.

(G) **Decommissioning Plan.**

- (1) **Commercial Wind Energy Conversion Systems:** The WECS project must contain a Decommissioning Plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment. For purposes of this Section, "facility abandonment" shall mean a consecutive period of time of not less than **one (1) year**. Decommissioning shall include: removal of

all structures (including transmission equipment and fencing) and debris to a depth of **four (4) feet**, restoration of the soil, and restoration of vegetation within **six (6) months** of the end of project life or facility abandonment. The decommissioning plan shall state how the facility will be decommissioned, the Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the City which states:

- (a) The financial resources for decommissioning which shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to the Zoning Administrator.
- (b) If the applicant chooses an escrow agreement:
 - 1. A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed; and
 - 2. The City shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within **six (6) months** of the end of project life or facility abandonment.
- (c) The City is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
- (d) The City is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the City's right to seek reimbursement from applicant or applicant's successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

Financial provisions shall not be so onerous as to make WECS projects unfeasible.

- (2) **Small Wind Energy Conversion Systems (non-commercial).** The WECS project application shall contain a notarized letter stating that a Decommissioning Plan exists for a time when the WECS is no longer in operation. A facility shall be deemed to have ceased operation if it has been idle for a period of **twelve (12) months**. The owner must certify that decommissioning will include removal of all structures (including transmission equipment and fencing) within **six (6) months** of the end of project life or facility abandonment. In the event that decommissioning is not completed by the owner, the City is granted the right to seek reimbursement for decommissioning costs and to file a lien against any real property owned by the applicant or applicant's successor, or in which they have an interest, and to take all steps allowed by law to enforce said lien.

ARTICLE V - DEVELOPMENT REVIEW PROCEDURES

40-5-1 GENERAL PROCEDURES.

(A) **Intent.** The intent of this Section is to ensure that the City is diligent in processing applications for development approval. As this Section denotes, the City's development review procedures for zoning diverge, depending on whether the type of requested approval is discretionary or ministerial in nature. If discretionary (i.e., special use, variance, or text amendment), an application for development approval shall be subject to additional levels of scrutiny by the ZBA and the City Council, as provided in this Code. If ministerial, the Zoning Administrator shall conduct all aspects of the application review and shall approve and issue appropriate permits.

(B) **Pre-Application Conference.**

(1) **Request and Scheduling.** An applicant for any type of development approval may at his option request an informal conference with the Zoning Administrator prior to filing an application.

(2) **Purpose of Conference.** The pre-application conference shall be informal and its purpose shall be to discuss the proposals, views, and concerns of the applicant and the Zoning Administrator to determine whether any of the application requirements should be waived or whether any additional information will be required.

(3) **Letter of Understanding.** Within **ten (10) days** after a pre-application conference, the Zoning Administrator shall transmit a Letter of Understanding to the applicant setting forth the substance of the pre-application conference. No representation of the Zoning Administrator or any other City official or employee at the pre-application conference or at any other time shall be binding on the City with respect to any application subsequently submitted if such representation is found to be in error or contrary to the policy of the City or these regulations.

(C) **Application Submission Requirements.** All applications for development approval shall be submitted to the Zoning Administrator in a form specified by the Zoning Administrator, accompanied by the payment of a fee as set forth in **Section 40-1-4** of this Code. Applicants for development approval may be required to submit additional information which the Zoning Administrator or the decision making body may deem necessary to review the proposed development.

(D) **Determination of Completeness of Application.**

(1) **Determination of Completeness.** Within **fifteen (15) days** after receipt of an application for development approval, the Zoning Administrator shall determine whether the application is complete. If the Zoning Administrator determines that the application is complete, he shall notify the applicant in writing that the application has been accepted for filing. If he determines that the application is not complete, he shall notify the applicant, specifying the deficiencies of the application, including any additional information which must be supplied. No further action shall be taken by the City on the application until the deficiencies are corrected.

- (2) **Remedy of Deficiencies.** If the applicant fails to correct the specified deficiencies within **thirty (30) days** of the notification of deficiency, the application for development approval shall be deemed withdrawn unless the time frame is extended by mutual agreement of the applicant and the Zoning Administrator.
- (3) **Effect of Determination.** The time limits for completion of review set out in these regulations shall commence on the date that the application is determined complete.

(E) **Review by Zoning Administrator.** The Zoning Administrator shall review the complete application for development approval in accordance with **Section 40-5-2** if the development is permitted as of right, **Section 40-5-3** if the development requires a special use permit, **Section 40-5-4** if the development requires an amendment to the text of these regulations or the Zoning District Map, **Section 40-5-5**, if a variance is requested, and **Section 40-5-7** if necessary, if a telecommunications carrier facility is requested.

(F) **Waiver of Time Limits.**

- (1) **By Agreement.** Any time limit imposed by these regulations (except for time limits in **Section 40-5-7** and except for appeals to the ZBA) may be waived or extended by agreement of the applicant and either the Zoning Administrator, the ZBA, or the City Council, depending on the stage of development approval.
- (2) **Automatic Waiver.** Any applicant who requests a continuance of a public hearing at which his application is being considered, or who requests an extension of any time limit imposed on him by statute or these regulations, shall be deemed to have agreed to an extension of that time limit.

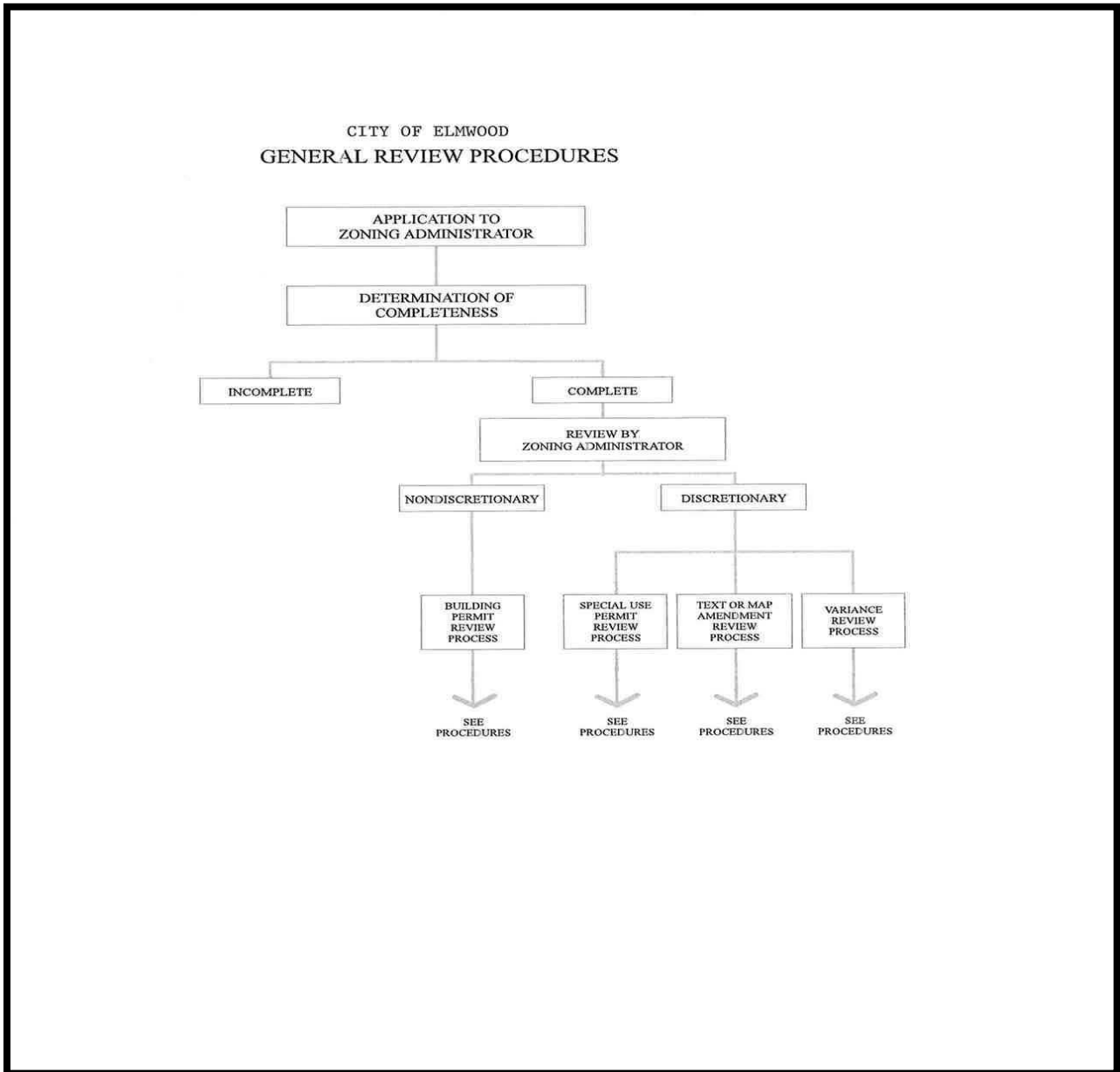
(G) **Examination and Copying of Application.** Any person may examine any application for development approval and other material submitted in regard to that application, and may obtain copies of the application and other materials upon reasonable request and payment of a fee to cover the actual cost of such copies.

(H) **Successive Applications.** Whenever any application for development approval for a variance, special use permit or an amendment to the Zoning District Map is denied, an application involving the same property shall not be accepted for filing within **six (6) months** from the date of denial, unless the subsequent application involves a development proposal which is materially different from prior proposals, in the opinion of the Zoning Administrator, or is responsive, in the opinion of the Zoning Administrator, to negative findings set forth in the denial of the prior application.

(I) **Compliance with Ordinance Requirements.**

- (1) A Zoning Certificate shall be issued by the Zoning Administrator certifying that a proposed or existing lot, proposed or existing structures thereon, and/or proposed or existing use complies with the requirements of this Code; or, for non-conformities, issued by the Zoning Administrator for any zoning lot which has a nonconforming use or structure which may be maintained because relief has been granted from any of the provisions of this Code due to one or more of the following:
 - (a) Its establishment as a lawful, nonconforming building;
 - (b) Its establishment as a lawful special use;
 - (c) The granting of variation by the Zoning Board of Appeals or the City Council, or;
 - (d) Court action.

- (2) A Certificate of Occupancy shall be issued by the Zoning Administrator for either of the following after compliance with all provisions of this Code has been determined:
 - (a) Occupancy and use of a building hereafter erected, reconstructed, enlarged, or moved; and
 - (b) Occupancy and use of vacant land.



40-5-2 DEVELOPMENT PERMITTED AS OF RIGHT.

(A) **Purpose.** Development permitted as of right is that development which permits uses which are compatible with other land uses in a zoning district provided they are developed in conformity with these regulations.

(B) **Application.** An applicant for approval of development permitted as of right shall submit an application for a building permit to the Zoning Administrator.

(C) **Action on the Application.** If the Zoning Administrator determines that the proposed development is in compliance with all requirements of these regulations, then a Zoning Certificate shall be issued with or without conditions. Other approvals, including a building permit, may be required from the City and other entities prior to the establishment of the use or commencement of construction.

40-5-3 SPECIAL USE PERMITS.

(A) **Purpose and Authority.**

(1) The purpose of special use permits is to enable the City to approve those uses which are generally compatible with other land uses permitted in a zoning district, but which require individual review of their location, design, and configuration and which may require the imposition of conditions in order to ensure the appropriateness of the use at a particular location.

(2) The ZBA may, in accordance with the procedures and standards of this Section, recommend approval of special use permits to the City Council.

(B) **Authorization.**

(1) Only those uses which are authorized in **Article VI (“Districts Regulations”)** or those nonconforming uses which are damaged or destroyed and are permitted to be reestablished in **Section 40-8-1** of this Code (**“Nonconformities”**), may be approved as special uses.

(2) The designation of a use in a zoning district does not constitute an authorization or an assurance that such use will be approved. Rather, each proposed special use shall be evaluated by the Zoning Administrator, the ZBA, and the City Council for compliance with the standards and conditions set forth in this Section and for each zoning district.

(C) **Application.**

(1) **Initiation.** An application for a special use permit may be submitted by the owner, an agent authorized in writing to act on the owner's behalf, or other person having a written contractual interest in the parcel of land proposed for development under a special use permit.

(2) **Provision.** The Zoning Administrator shall provide the petitioner with a sample of a special use petition form and a copy of the City's special use procedures.

(3) **Minimum Submittal Requirements.** Applications for a special use permit shall be filed with the Zoning Administrator and shall include, but shall not be limited to the following information:

- (a) The legal description, parcel identification number (PIN), and address (if available) of parcels (s) that are the subject of the request.
- (b) A written description of the proposed use that includes information concerning proposed hours of operation, expected traffic impacts, and any other pertinent details concerning the proposed use, including a description of how the request satisfies the review standards found in Subsection D, below:
- (c) The present and proposed land use;
- (d) The surrounding zoning classifications;
- (e) An explanation of the need for the special use at the petitioned site;
- (f) The names and addresses of owners of petitioned property;
- (g) The following statements:
 - 1. Whether the applicant is a corporation, and if a corporation, disclose the correct names and addresses of all officers and directors and of all stockholders or shareholders owning any interest in excess of **twenty percent (20%)** if all outstanding stock or shares of such corporation.
 - 2. Whether the applicant, or his principal if other than the applicant, is a business or an entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity.
 - 3. Whether the applicant or his principal if other than the applicant is a partnership, a joint venture, a syndicate, or an unincorporated voluntary association, and if so, include the names and addresses of all partners, or members of the partnership, joint venture, syndicate, or unincorporated voluntary association.
 - 4. Whether the applicant is acting for himself or in the capacity of an agent, an alter ego, or a representative of a principal. The applicant shall include the name and address of the true principal.
- (h) A site plan which contains, at a minimum, the following:
 - 1. A layout map of all existing and proposed buildings and structures on the site including setback from property lines and height;
 - 2. The traffic circulation pattern;
 - 3. The parking and loading areas and individual berths; including number of parking spaces, aisle and typical space dimensions;
 - 4. The proposed sewerage and water systems;
 - 5. The placement of exterior lighting;
 - 6. Landscaping, screening, buffering. Note that landscape plan may be submitted as an attachment to the site plan. Landscaping plans must comply with **Section 40-7-7(J)**, Landscape Plan.
 - 7. Points of ingress and egress;
 - 8. Traffic circulation pattern;
 - 9. Sign plan including dimensions, height, setback from property lines, number, content, location;
 - 10. Property lines;
 - 11. Easement locations and purposes;
 - 12. Adjacent streets and sidewalks with dimensions and street names;
 - 13. North arrow, development names, map scale, date of preparation;
 - 14. Building elevations; and
 - 15. Any other information as required by the Zoning Administrator to allow an accurate and complete review.
- (i) A copy of such site plan at a reproducible size not to exceed 11" x 17" plus 11 full size site plans; **(Ord. No. 2013-15; 09-03-13)**

- (j) For Special Uses under **Section 40-6-4(C)(1)(a)** of this Code which require a water supply and will not be served by public water, the following shall be submitted;
 - 1. Documentation regarding proximity to existing water supply, both current and planned expansion by the appropriate water authority.
 - 2. Detailed and documented cost comparison of the projected costs of public water, community water, and individual wells.
 - 3. Documentation shall be provided to demonstrate that an adequate quantity and quality of water will be available for all lots proposed. Such documentation may be provided by the Illinois State Geological Survey or the Illinois State Water Survey.
 - 4. Documentation from an existing well in the immediate vicinity documenting the production of water at a minimum rate of three gallons per minute (3gpm.)
 - 5. The developer shall provide data from a test boring(s) completed by a well driller denoting the availability of water at this location. Location of the test well(s) shall be identified by the Illinois State Water Survey, the Peoria City/County Health Department and a licensed well driller. Results of such boring shall indicate a minimum **three gallons per minute (3gpm)** produced.
- (k) For Special Uses under **Section 40-6-4(C)(1)(a)** of this Ordinance which require sanitary disposal of domestic sewage and will not be served by public sewer, the following shall be submitted:
 - 1. Soil profiles in locations specified by the Peoria/City County Health Department.
- (l) **Special Use to Run with the Land unless Otherwise Indicated.** All special uses granted by the City Council, both before and after the effective date of this Subsection 1, shall run with the parcel which is the subject of the special use unless: 1.) the conditions attached to the special use by the City Council restrict it to a particular person(s) or period of time, in which case the special use shall terminate as provided in said conditions, or 2.) the special use is subsequently revoked by the City Council or the Zoning Administrator.
- (4) **Review by the Zoning Administrator.**
 - (a) The Zoning Administrator shall send a copy of the applications to the appropriate road official and to the Peoria City/County Health Department for comment.
 - (b) After receipt of a complete application for a special use permit, the Zoning Administrator shall complete the review of the application and shall send a written

recommendation to the ZBA and the City Council, with a copy to the applicant. The recommendation shall set forth whether the special use application should be granted or denied, and shall state the grounds for any such recommendations as they relate to the standards set forth in Subsection (D) below. Such recommendation shall be submitted to a ZBA and to the City Council prior to the required public hearing before the ZBA.

(D) **Approval Standards.** When considering an application for a special use permit, the decision making body shall consider the extent to which:

- (1) The special use will be consistent with the purposes, goals, objectives, and standards of any officially adopted City plan and these regulations, or if not consistent, the factors which justify deviation;
- (2) The special use will be consistent with the community character of the immediate vicinity of the parcel proposed for development, or if not consistent, the factors which justify the inconsistency;
- (3) The design of the proposed use will minimize adverse effects, including visual impacts on adjacent properties, except for land splits in the A-2 District; and
- (4) The Special Use shall, in all other respects, conform to the applicable regulations of the Ordinance, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Zoning Commission and actions by the City Council.

(Ord. No. 2013-15; 09-03-13)

(E) **Conditions.** The City Council may attach and the Zoning Administrator and the ZBA may recommend the attachment of such conditions to a special use permit as are reasonably necessary to meet the standards in Section (D), including, but not limited to: requirements for landscaping and lighting; provision of adequate ingress and egress and off-site but project-related improvements; and other conditions such as the duration of the permit, hours of operation, and mitigation of environmental impacts.

(F) **Action by Zoning Board of Appeals.**

- (1) The ZBA shall conduct a public hearing to consider the special use proposal in accordance with the provisions of **Section 40-3-2(G)(5)** of this Code ("**Conduct of Hearing**").
- (2) The ZBA shall review the special use application, the recommendation of the Zoning Administrator, and the testimony at the public hearing, and shall send its findings of fact and recommendation to the City Council recommending approval, approval with conditions, or denial of the special use permit.

(G) **Action by City Council.** The City Council shall review the proposed special use, the report of the ZBA, and the recommendation of the Zoning Administrator, and shall grant or deny the application for a special use permit by a majority vote of the members present constituting a quorum. The City Council may also refer the petition back to the ZBA for further consideration.

- (1) **Recording of Notice of Restrictions.** A notice of restrictions shall be recorded with the Recorder of Deeds of Peoria County that includes the terms and conditions upon which the special use approval is granted. The cost of such recording shall be paid for by the petitioner.

- (2) **Effect of Issuance of a Special Use Permit.** Issuance of a permit for a special use shall be deemed to authorize only the particular use for which it is issued

(H)

Post-Approval Process.

- (1) **Development of an Approval Special Use.** Development of the use shall not be carried out until the applicant has secured all other permits and approvals required by these regulations, the City, the County, or State and federal agencies and until the approved special use is recorded in accordance with **Section 40-5-3(G)(1)**, above,

- (2) **Inspection During Development Under a Special Use Permit.**

- (a) Following the issuance of a special use permit and from time to time as he deems appropriate until the completion of the development, the Zoning Administrator shall compare the actual development with approved plans and permits for development and the approved development schedule, if any.

- (b) If at any time during the construction of the development approved by the special use permit, the Zoning Administrator determines that development is not proceeding in accordance with the special use permit as approved, then the Zoning Administrator may issue a stop work order and collect a stop work order fee from the developer.

- (3) **Inspections after Development.**

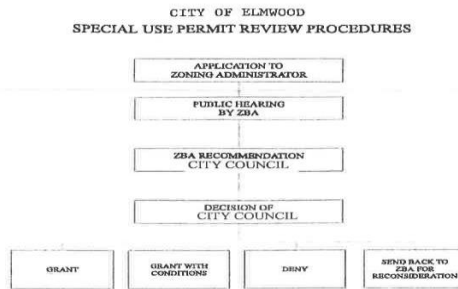
- (a) Following the completion of the development of a special use, the Zoning Administrator shall review the development for compliance with the use as approved. If it is determined that the special use has been developed in accordance with approval, then a Certificate of Occupancy shall be issued.

- (b) If the Zoning Administrator finds that the development, as completed, fails in any respect to comply with the use as approved, he shall immediately notify the applicant of such fact. The Zoning Administrator shall not issue a Certificate of Occupancy until the development has been brought into compliance.

- (c) The Zoning Administrator shall inspect the special use on an annual basis to determine whether the conditions of the special use continue to be met. If the Zoning Administrator finds that any of the conditions have been violated, he shall take appropriate enforcement action and may revoke the special use permit.

(I) **Termination of Special Use Permits.** A special use permit may be terminated by the Zoning Administrator in accordance with the restrictions contained in the permit.

(J) **Variances.** Notwithstanding the provisions of **Section 40-5-5** of this Chapter, an applicant for a special use may apply for variances as described in said **Section 40-5-5** as part of a special use application as described in this Section. The requirements for an application for variances and the standards for approval of variances set forth in **Section 40-5-5** shall apply, but all required notices may be combined with notices for the special use. The ZBA shall not grant or deny any such variances, but shall make a recommendation to the City Council concurrently with its recommendation on the special use, and the City Council shall have the authority to grant or deny such variances along with the special use. **(Ord. No. 2013-15; 09-03-13)**



40-5-4 TEXT AND MAP AMENDMENTS.

(A) **Authority and Purpose.** The City Council is hereby authorized to amend the text of these regulations or the Zoning District Map in light of changing conditions and in light of changes to the City’s comprehensive plan. The provisions of this Section are not intended to relieve particular hardships nor to confer special privileges.

(B) **Amendment Types.**

- (1) **Text Amendments.** Amendments to the text of these regulations (which affect the entire City) may be initiated by the City Council, the ZBA, the Zoning Administrator, any resident of the City, or any developer of property located within the City.
- (2) **Map Amendments.** Amendments to the Zoning District Map (which affect individual parcel(s) of land) may be initiated by the owner of property involved, a non-owner with the written permission of such property owner, the City Council, the ZBA, or the Zoning Administrator. Any map amendment initiated by a property owner which involves a single parcel of land shall require the submission of an application to the Zoning Administrator in accordance with the provisions of **Sections 40-5-1(A-D)** of this Code (“**General Procedures**”).

(C)

Application.

- (1) **Provision.** The Zoning Administrator shall provide the petitioner with a sample of a text amendment or map amendment petition form and a copy of the City's amendment procedures.
- (2) **Minimum Submittal Requirements.** Applications for rezoning shall be filed with the Zoning Administrator and shall include, but shall not be limited to, the following information:
 - (a) The legal description, parcel identification number (PIN), and address (if available) of the parcel(s) that are subject of the request.
 - (b) The current and proposed zoning classifications, or sections of the Code to be amended.
 - (c) Reserved. **(Ord. No. 2013-15; 09-03-13)**
 - (d) The zoning classifications of the surrounding parcels.
 - (e) The name and address of the property owner(s) of the parcel(s) that are the subject of the request.
 - (f) A written description of the proposed use that includes information concerning proposed hours of operation, expected traffic impacts, and any other pertinent details concerning the proposed use, including a description of how the request satisfies the review standards found in Subsection (D), below;
 - (g) Reserved. **(Ord. No. 2013-15; 09-03-13)**
 - (h) Reserved. **(Ord. No. 2013-15; 09-03-13)**
 - (i) If the proposed Rezoning will not be served by public water, the following shall be submitted.
 - 1. Documentation regarding proximity to existing water supply, both current and planned expansion by the appropriate water authority.
 - 2. Detailed and documented cost comparison of the projected costs of public water, community water, and individual wells.
 - 3. Documentation shall be provided to demonstrate that an adequate quantity and quality of water will be available for all lots proposed. Such documentation may be provided by the Illinois State Geological Survey or the Illinois State Water Survey.
 - 4. Documentation from an existing well in the immediate vicinity documenting the production of

water at a minimum rate of **three gallons per minute (3gpm.)**

5. The developer shall provide data from a test boring(s) completed by a well driller denoting the availability of water at this location. Location of test well(s) shall be identified by the Illinois State Water Survey, the Peoria City/County Health Department and a licensed well driller. Results of such boring shall indicate a minimum **three gallons per minute (3gpm)** produced.

- (j) If the proposed Rezoning will not be served by public sewer, the following shall be submitted:
 1. Soil profiles in locations specified by the Peoria City/County Health Department

(3) **Review by the Zoning Administrator.**

- (a) The Zoning Administrator shall send a copy of the application to the City's Superintendent of Public Works and to the Peoria City/County Health Department for comment.
- (b) After receipt of a complete application for a text or map amendment, the Zoning Administrator shall complete the review of the application and shall send a written recommendation to the ZBA and the City Council, with a copy to the applicant. The recommendation shall set forth whether the amendment application should be granted or denied, shall suggest a zoning district classification, if any, and shall state the grounds for any such recommendations as they relate to the standards and the purposes of the zoning district classifications of the City, the standards in this Section (D), below and any officially adopted City plan.

(D) **Approval Standards.**

- (1) In evaluating a proposed map amendment, the following factors shall be considered, not one of which shall be controlling;
 - (a) The existing uses and zoning of nearby property;
 - (b) The extent to which property values are diminished by the particular zoning restriction;
 - (c) The extent to which the destruction of property values of the applicant promotes the health, safety, morals or general welfare of the public;
 - (d) The relative gain to the public as compared to the hardship imposed upon the individual property owner;
 - (e) The suitability of the subject property for the zoned purposes;
 - (f) The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the subject property; and
 - (g) The community need for the proposed use; and
 - (h) Whether the proposed change would be contrary to any officially adopted City plan.

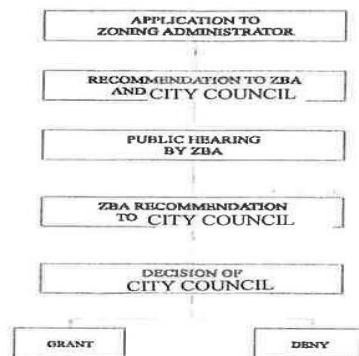
- (2) In evaluating a proposed text amendment, the following factors shall be considered, not one of which shall be controlling:
 - (a) The proposed amendment corrects an error inconsistency or meets the challenge of some changing condition:
 - (b) The proposed amendment is consistent with the purpose and intent of this Code:
 - (c) The proposed amendment will not adversely affect health, safety, morals and general welfare of the public:
 - (d) The proposed amendment is required because of a change in State or Federal law.

(E) **Action by Zoning Board of Appeals.**

- (1) The ZBA shall conduct a public hearing to consider any amendment to the text of these regulations or the Zoning District Map in accordance with the provisions of **Section 40-3-2(G)** of this Code ("Hearing Procedures").
- (2) The ZBA shall review the proposed amendment, the recommendation of the Zoning Administrator, and the testimony at the public hearing, and shall send its findings of fact and recommendation to the City Council recommending approval or denial of the amendment.

(F) **Action by City Council.** The City Council shall review the proposed amendment, the report of the ZBA, and the recommendation of the Zoning Administrator. Except as provided in Section 11-13-14 of the Illinois Municipal Code (**65 ILCS 5/11-13-14**), which requires a supermajority vote in the event of certain written protests, the City Council shall grant or deny the text or map amendment by a majority vote of the members of the City Council.

CITY OF ELMWOOD
TEXT AND MAP AMENDMENTS REVIEW PROCEDURES



40-5-5

VARIANCES.

(A)

Authority and Purposes.

- (1) Except for telecommunications carrier facilities, the ZBA, and in certain cases described in paragraph 2, below, the Zoning Administrator, are hereby authorized to grant such variances from the literal terms of these regulations where there are practical difficulties or undue hardships that may result from strict compliance with these regulations so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.
- (2) Except for telecommunications carrier facilities, the Zoning Administrator is hereby authorized to grant variances from the literal terms of these regulations where the variation sought would not vary either the location of a structure or the bulk regulations contained in this Code by more than **ten percent (10%)**.

(B)

Application.

- (1) **Initiation.** An application for a variance may be submitted by the owner, an agent authorized in writing to act on the owner's behalf, or other person having a written contractual interest in the parcel of land proposed for development. An application for a variance shall be submitted to the Zoning Administrator and reviewed in accordance with the provisions of **Section 40-5-1(A-C)** of this Code ("**General Procedures**").
- (2) **Provision.** The Zoning Administrator shall provide the petitioner with a sample of a variance petition form and a copy of the City's variance procedures.
- (3) **Minimum Submittal Requirements.** Proposals for variances shall be filed with the Zoning Administrator and shall include, but shall not be limited to, the following information.
 - (a) The legal description, parcel identification number (PIN), and address (if available) of parcel (s) that are the subject of the request.
 - (b) The variance sought;
 - (c) A written description of the need for the variance that includes information concerning how the request satisfies the review standards found in Subsection (C), below;
 - (d) The present and proposed land use;
 - (e) The parcel(s)' zoning and surrounding zoning classification;
 - (f) The names and addresses of owners of petitioned property;
 - (g) The following statements:
 1. Whether the applicant is a corporation, and if a corporation, disclose the correct names and addresses of all officers and directors and of all stockholders or shareholders owning any interest in excess of **twenty percent (20%)** if all outstanding stock or shares of such corporation.

2. Whether the applicant, or his principal if other than the applicant, is a business or an entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity.
 3. Whether the applicant or his principal if other than the applicant is a partnership, a joint venture, a syndicate, or an unincorporated voluntary association, and if so, include the names and addresses of all partners, or members or the partnership, joint venture, syndicate, or unincorporated voluntary association.
 4. Whether the applicant is acting for himself or in the capacity of an agent, an alter ego, or a representative of a principal. The applicant shall include the name and address of the true principal.
- (h) A site plan, which contains, at a minimum, the following:
1. A layout map of all components of the request;
 2. Pertinent natural features that may be the cause of the request;
 3. All improvements (structures, septic systems, etc.) that may be the cause of the request.
- (i) A copy of such site plan at a reproducible size not to exceed 11" x 17"
- (j) Except as provided in Subsection (j)6. below. Variances which involve a proposed land split which will not be served by public water, the following shall be submitted:
1. Documentation regarding proximity to existing water supply, both current and planned expansion by the appropriate water authority.
 2. Detailed and documented cost comparison of the projected costs of public water, community water, and individual wells.
 3. Documentation shall be provided to demonstrate that an adequate quantity and quality of water will be available for all lots proposed. Such documentation may be provided by the Illinois State Geological Survey or the Illinois State Water Survey.
 4. Documentation from an existing well in the immediate vicinity documenting the production of water at a minimum rate of **three gallons per minute (3 gpm.)**
 5. The developer shall provide data from a test boring(s) completed by a well driller denoting the availability of water at this location. Location of the test well(s) shall be identified by the Illinois State Water Survey, the Peoria City/County Health Department and a licensed well driller. Results of

such boring shall indicate a minimum **three gallons per minute (3 gpm.)**

6. In the case of agricultural related land splits, the requirements of Subsection (j)1. through (j)5. shall not be required for commercial ag-related businesses, grain bins, and /or seed storage, provided the use does not require, nor utilize, and office and/or restrooms.

(k) Except as provided in Subsection (k)2. below, variances which involve a proposed land split which will not be served by public sewer, the following shall be submitted:

1. Soil profiles in locations specified by the Peoria/City County Health Department.

2. In the case of agricultural related land splits, documentation in the form of soil profiles shall not be required for commercial ag-related businesses, grain bins, and/or seed storage, provided the use does not require, nor utilize, an office and/or restrooms.

(4) **Zoning Administrator Review.**

(a) After receipt of a complete application, if the variance will be heard by the ZBA, the Zoning Administrator shall forward the application to the ZBA.

(C) **Standards.** The findings of the ZBA or the Zoning Administrator shall be based on data submitted pertaining to each standard in this Subsection as it relates to the development. A variance shall be granted only if the applicant demonstrates:

(1) That the plight of the owner is due to unique circumstances;

(2) That the variation, if granted, will not alter the essential character of the locality;

(3) That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out;

(4) That the conditions upon which the petition for a variation are based are unique to the property for which the variance is sought and are not applicable, generally, to other property;

(5) That the granting of the variation will not be detrimental to the public health, safety, comfort, morals and welfare, or injurious to other property or improvements in the neighborhood in which the property is located, or otherwise be inconsistent with any officially adopted City plan or these regulations;

(6) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood;

(7) That the variance granted is the minimum adjustment necessary for the reasonable use of the land; and

- (8) That aforesaid circumstances or conditions are such that the strict application of the provisions of this Section would deprive the applicant of reasonable use of his or her land. Mere loss in value shall not justify a variance.

(D) **Conditions.** Issuance of a variance may be made subject to such conditions as are necessary to carry out the purposes of these regulations and to prevent or minimize adverse effects upon other property in the neighborhood, including, but not limited to, limitations on size and location, hours of operation, requirements for landscaping, lighting, and ingress and egress.

(E) **Action.**

(1) **Zoning Administrator.**

(a) If the variance will be decided by the Zoning Administrator, the Zoning Administrator shall consider the extent to which the applicant has demonstrated compliance with the standards set forth in Subsection (C), above, and shall grant the variance, subject to conditions, or deny the variance. The action of the Zoning Administrator in granting or denying the variance shall contain or be accompanied by a finding of fact specifying the reason for his decision.

(b) Before any such variance may be granted, however, the Zoning Administrator shall send a notice by certified mail to all adjoining landowners of his intent to grant such variance. If any adjoining landowner files a written objection with the Zoning Administrator within **fifteen (15) days** of receipt of such notice, the variance shall be considered by the ZBA in accordance with the provisions of Subsection (C), above.

(2) **Zoning Board of Appeals.**

(a) The ZBA shall conduct a public hearing to consider any variation from the terms of these regulations in accordance with the requirements of **Section 40-3-2(G)(5)** of this Code ("**Hearing Procedures**").

(b) The ZBA shall review the application, the recommendation of the Zoning Administrator, and the testimony at the public hearing and shall grant the variance, grant the variance requested subject to specified conditions, or deny the variance.

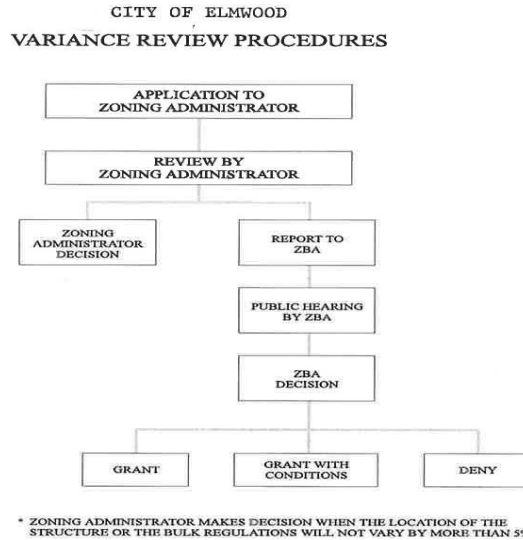
(c) The action of the ZBA in granting or denying a variance shall contain or be accompanied by a finding of fact specifying the reason for its decision in accordance with the provisions of **Section 40-3-2(G)(6)(b)** of this Code ("**Findings**").

(3) Any variance of any setback requirements for a Wind Energy Conversion System shall be recorded with the Peoria County Recorder of Deeds.

(F) **Special Uses.** Any application for variances as part of an application for special use under **Section 40-5-3** of this Chapter shall be considered pursuant to **Section 40-5-3(J)** of this Chapter and not pursuant to this Section. (**Ord. No. 2013-15; 09-03-13**)

40-5-6 APPEALS OF ADMINISTRATIVE DECISIONS.

(A) **Authority and Purpose.** The ZBA is hereby authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator or other administrative official in the enforcement of these regulations. An appeal may be initiated by any person aggrieved by any decision of the Zoning Administrator.



(B) **Notice of Appeal.** A notice of appeal authorized under the provisions of this Section shall be filed with the Zoning Administrator and the ZBA within **thirty-five (35) days** from the date of the challenged administrative action. The Zoning Administrator shall transmit to the ZBA a complete file constituting the record on appeal.

(C) **Stay.** When an appeal is filed, all proceedings in furtherance of the action appealed from shall be stayed, unless the Zoning Administrator certifies to the ZBA that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order granted by the ZBA or by a court of record on application, on notice to the Zoning Administrator, and on due cause shown.

(D) **Review and Public Hearing.** The ZBA shall review the notice of appeal and shall give notice and conduct a public hearing on the appeal in accordance with the requirements of **Section 40-3-2(G)** of this Code ("**Hearing Procedures of the Zoning Board of Appeals**") of these regulations.

(E) **Standards and Decision by Zoning Board of Appeals.** In evaluating the merits of the appeal, the ZBA shall consider factors that may include: the consistency with the terms of these regulations, the implications of setting any precedent, and the availability of other alternatives for the appellant. The ZBA shall, in whole or in part, grant the appeal, grant the appeal subject to specified conditions, or deny the appeal, and to that end, shall have all the powers of the Zoning Administrator.

(F) **Fees.** The applicant who files a notice of appeal shall pay all required publication costs associated with the request as well as fees levied by the City pursuant to **Section 40-1-4 ("Review Fees")** to partially defray its expense of investigating and considering the appeal. The fee shall be paid at the time of filing and publication fees shall be paid to the Zoning Administrator prior to any final disposition of the request by the ZBA.

(G) **Appeals to Court.** An appeal of a decision of the ZBA shall be made to a court of competent jurisdiction pursuant to the provisions of the Administrative Review Act, **735 ILCS 5/3-101 et seq.** The appealing party shall bear the cost of preparing the record on appeal. Copies of any orders or proceedings ordered by the appellant shall be furnished to him at his own cost.

40-5-7 TELECOMMUNICATIONS CARRIER FACILITIES – VARIANCES.

(A) **Authority and Purpose.** The City Council may, in certain instances described below, grant variations from the regulations, conditions and restrictions of **Section 40-4-1(B).**

(B) **Initiation and Review of Application.** An application for a variance may be submitted by the owner, and agent authorized in writing to act on the owner's behalf, or other person having a written contractual interest in the parcel of land proposed for development.

(C) **Filing and Content of Application.** Proposals for variances shall be filed with the Zoning Administrator and shall include, but shall not be limited to, the following information:

- (1) The legal description and address (if available) of the premises;
- (2) The variance sought;
- (3) The present and proposed land use;
- (4) The present zoning classifications;
- (5) The surrounding zoning classifications;
- (6) The names and addresses of owners of petitioned property;
- (7) An explanation of the need for the variance;
- (8) A site plan of 1" = 20' which shows all existing and proposed buildings and structures on the site;
- (9) A copy of such site plan at reproducible size not to exceed 11" x 17".

(D) **Standards.** In making their findings, the ZBA and the City Council shall consider the following and no other matters:

- (1) Whether, but for the granting of a variance, the service that the telecommunication carrier seeks to enhance or provide with the proposed facility will be less available, impaired or diminished in quality, quantity, or scope of coverage;
- (2) Whether the conditions upon which the application for the variance is based are unique in some respect or, if not, whether the strict application of the regulations would result in a hardship on the telecommunications carrier;

- (3) Whether a substantial adverse effect on public safety will result from some aspect of the facility's design or proposed construction, but only if that aspect of design or construction is modifiable by the applicant;
- (4) Whether there are benefits to be derived by the users of the services to be provided or enhanced by the facility and whether public safety and emergency response capabilities would benefit by the establishment of the facility; and
- (5) The extent to which the design of the proposed facility reflects compliance with the following:
 - (a) No building or tower that is part of a facility should encroach onto any recorded easement prohibiting the encroachment unless the grantees of the easement have given their approval.
 - (b) Lighting should be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting should be shielded so that no glare extends substantially beyond the boundaries of a facility.
 - (c) No facility should encroach onto an existing septic field.
 - (d) Any facility located in a special flood hazard area or wetland should meet the legal requirements for those lands.
 - (e) Existing trees more than **three (3) inches** in diameter should be preserved if reasonably feasible during construction. If any tree more than **three (3) inches** in diameter is removed during construction a tree **three (3) inches** or more in diameter of the same or a similar species shall be planted as a replacement if reasonably feasible. Tree diameter shall be measured at a point **three (3) feet** above ground level.
 - (f) If any elevation of a facility faces an existing, adjoining residential use within a residential zoning district, low maintenance landscaping should be provided on or near the facility lot to provide at least partial screening of a facility. The quantity and type of that landscaping should be in accordance with **Section 40-7-7**, Table 7-3 except that paragraph (e) of this subsection (f) shall control over any tree-related regulations imposing a greater burden.
 - (g) Fencing should be installed around a facility. The height and materials of the fencing should be in accordance with **Section 40-7-5**.
 - (h) Any building that is part of a facility located adjacent to a residentially zoned lot should be designed with exterior materials and colors that are reasonably compatible with the residential character of the area.

(E) **Review of Application.** After receipt of a complete application for a variance, the Zoning Administrator shall complete review of the application and shall send a report to the ZBA, with a copy to the applicant.

(F) **Publication.** Regardless of any other provision in these regulations to the contrary, notice of the hearing is only required to be published in a newspaper of general circulation published in the City.

(G) **Action by Zoning Board of Appeals.**

- (1) The ZBA shall conduct no more than one public hearing to consider the application in accordance with the provisions of **Section 40-3-2(G)(5)** of this Code (**Hearing Conduct**).
- (2) The ZBA shall review the application, the report of the Zoning Administrator, and the testimony at the public hearing, and shall send its findings of fact and recommendation to the City Council recommending approval or denial of the variance.

(H) **Action by the City Council.**

- (1) The City Council shall review the record before the ZBA and the ZBA's recommendation and findings and shall grant or deny the variance by a vote of a majority of the members present.
- (2) The City Council must make its final decision no later than **seventy-five (75) days** after submission of a complete application. If the City Council fails to act on the application within **seventy-five (75) days** after submission of a complete application, the application shall be deemed to have been approved.
- (3) All decisions by the City Council shall be supported by written findings of fact.

40-5-8 ADULT-USE CANNABIS.

(A) **Purpose and Applicability.** It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within the corporate limits of the City. Such facilities shall comply with all regulations provided in the Act, as it may be amended from time to time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Act is amended, the more restrictive of the state or local regulations shall apply.

(B) **Special Use.** Adult-Use Cannabis Business Establishment facilities, as defined herein, requiring approval of a special use in the respective districts in which they are requested shall be processed in accordance with **Section 40-5-3** (Special Use Permits) of this Chapter as provided herein.

(C) **Adult-Use Cannabis Facility Components.** In determining compliance with **Section 40-5-3** (Special Use Permits) of this Chapter, the following components of the Adult-Use Cannabis Facility shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

- (1) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
- (2) Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
- (3) Hours of operation and anticipated number of customers/employees.
- (4) Anticipated parking demand based on **Section 40-7-8** of this Chapter and available private parking supply.
- (5) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
- (6) Site design, including access points and internal site circulation.
- (7) Proposed signage plan.
- (8) Compliance with all requirements provided herein.
- (9) Other criteria determined to be necessary to assess compliance with **Section 40-5-3** (Special Use Permits) of this Chapter.

(D) **Adult-Use Cannabis Craft Grower.** In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

- (1) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (2) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing property zoned for residential purposes.
- (3) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (4) For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as "commercial retail establishments" per **Section 40-7-8** (Parking and Loading Requirements) of this Chapter, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-5-3** (Special Use Permits) herein.
- (5) Petitioner shall file an affidavit with the City affirming compliance with all requirements of the Act.

(E) **Adult-Use Cannabis Cultivation Center.** In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

- (1) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (2) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing property zoned for residential purposes.
- (3) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (4) For purposes of determining required parking, Adult-Use Cannabis Cultivation Centers shall be classified as "commercial retail establishments" per **Section 40-7-8** (Parking and Loading Requirements) of this Chapter, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-5-3** (Special Use Permits) herein.
- (5) Petitioner shall file an affidavit with the City affirming compliance all requirements of the Act.

(F) **Adult-Use Cannabis Dispensing Organization.** In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:

- (1) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (2) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned for residential purposes.

- (3) At least **seventy-five percent (75%)** of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food for consumption on the premises other than as authorized in **Section 40-5-7(F)(5)** below in the same tenant space.
- (4) Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (5) Facility may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the dispensing organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the facility required by **Section 40-5-8(J)** (Additional Requirements) shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in **Section 40-5-3** (Special Use Permits) herein.
- (6) For purposes of determining required parking, said facilities shall be classified as "commercial retail establishments" per **Section 40-7-8** (Parking and Loading Requirements) of this Chapter, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-5-3** (Special Use Permits) herein.
- (7) Petitioner shall file an affidavit with the City affirming compliance with all requirements of the Act.

(G) **Adult-Use Cannabis Infuser Organization.** In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:

- (1) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (2) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned for residential purposes.
- (3) At least **seventy-five percent (75%)** of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (4) For purposes of determining required parking, said facilities shall be classified as "commercial retail establishments" per **Section 40-7-8** (Parking and Loading Requirements) of this Chapter, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-5-3** (Special Use Permits) herein.
- (5) Petitioner shall file an affidavit with the City affirming compliance with all requirements of the Act.

(H) **Adult-Use Cannabis Processing Organization.** In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

- (1) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private

nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

- (2) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned for residential purposes.
- (3) At least **seventy-five percent (75%)** of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (4) For purposes of determining required parking, said facilities shall be classified as "commercial retail establishments" per **Section 40-7-8** (Parking and Loading Requirements) of this Chapter, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-5-3** (Special Use Permits) herein.
- (5) Petitioner shall file an affidavit with the City affirming compliance with all requirements of the Act.

(I) **Adult-Use Cannabis Transporting Organization.** In those zoning districts in which an Adult-Use Transporting Organization may be located, the proposed facility must comply with the following:

- (1) Facility may not be located within **one thousand five hundred (1,500) feet** of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
- (2) Facility may not be located in a dwelling unit or within **two hundred fifty (250) feet** of the property line of a pre-existing property zoned for residential purposes.
- (3) The transporting organization shall be the sole use of the tenant space in which it is located. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
- (4) For purposes of determining required parking, said facilities shall be classified as "commercial retail establishments" per **Section 40-7-8** (Parking and Loading Requirements) of this Chapter, provided, however, that the City may require that additional parking be provided as a result of the analysis completed through **Section 40-5-3** (Special Use Permits) herein.
- (5) Petitioner shall file an affidavit with the City affirming compliance with all requirements of the Act.

(J) **Additional Requirements.** Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the special use permit, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Act.

(K) **Co-Location of Cannabis Business Establishments.** The City may approve the co-location of an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower Center or an Adult-Use Cannabis Infuser Organization, or both, subject to the provisions of the Act and the Special Use criteria within the City of the Elmwood Municipal Code. In a co-location, the floor space requirements of **Section 40-5-8(F)(3)** and **(G)(3)** shall not apply, but the co-located establishments shall be the sole use of the tenant space.

(L) **Maximum Number.** The maximum number of Special Use Permits that may be issued for Adult-Use Cannabis Business Establishments shall be as follows:

Adult Use Cannabis Craft Grower	1
Adult Use Cannabis Cultivation Center	1
Adult Use Cannabis Dispensing Organization	1
Adult Use Cannabis Infuser Organization or Infuser	1
Adult Use Cannabis Processing Organization or Processor	1
Adult Use Cannabis Transporting Organization or Transporter	1

(M) **Duration and Renewal.** All special use permits issued pursuant to this Section shall be for a term not to exceed **one (1) year**, expiring on the **fourth (4th) Tuesday of May** of each year. All applications for the renewal of a special use permit issued under this Section shall be made in writing. In addition to the application for renewal, the permittee shall submit an affidavit stating that the information and statements contained in the original application have not changed and that the Adult-Use Cannabis Business Establishment has been operated in accordance with all applicable laws, ordinance and regulations. Upon such affidavit being filed, the special use permit may be renewed without the filing of a full application. An application fee in the amount of **Five Hundred Dollars (\$500.00)** shall be paid at the time of filing of the initial and each renewal application. The fee shall be paid in cash or by money order or cashier's check, and no other method of payment will be accepted. No public hearing shall be required for renewal of a special use permit pursuant to this Section. A special use permit issued under this Section is a privilege and not a right and is subject to non-renewal at the discretion of the City. The City shall not refuse to renew a special use permit issued under this Section except after a public hearing held in the same manner as described in **Section 40-5-8(N)** below.

(N) **Suspension or Revocation.**

- (1) A special use permit issued under this Section shall permit the operation of an Adult-Use Cannabis Business Establishment only on the premises described in the application and special use permit and only under the conditions and restrictions imposed in this Section. Such special use permit shall not 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 special use permit shall not descend by the laws of testate or intestate devolution but shall cease upon the death of the permittee. A special use permit issued under this Section is a privilege and not a right and is subject to revocation and suspension as set forth herein.
- (2) The City may revoke or suspend any special use permit upon a determination that the permittee has violated any of the provisions of the Act, the City Code or any other applicable law, ordinance or regulation. In addition to the suspension, the City may levy a fine on the permittee for such violations. The fine imposed shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day on which a violation continues shall constitute a separate violation. No special use permit shall be so revoked or suspended, and no permittee shall be fined except after a public hearing by the City with a **three (3) day** written notice to the permittee affording the permittee an opportunity to appear and defend. All such hearings shall be open to the public, and the City shall reduce all evidence to writing and shall maintain an official record of the proceedings.
- (3) If the City has reason to believe that any continued operation of an Adult-Use Cannabis Business Establishment will immediately threaten the welfare of the community, it may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the Adult-Use Cannabis Business Establishment closed for not more than **seven (7) days**, giving the permittee an opportunity to be heard during that period.

- (4) The City shall within **five (5) days** after such hearing, if it determines after such hearing that the special use permit should be revoked or suspended or that the permittee should be fined, state the reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the special use permit has been revoked, and shall serve a copy of such order within the **five (5) days** upon the permittee.

(Ord. No. 2020-08; 12-03-20)

40-5-9 SOLAR ENERGY EQUIPMENT.

(A) **Purpose.** It is the purpose of this Section to regulate the siting and installation of ground mounted solar energy equipment. The promotion of safe, effective, and efficient use of ground mounted solar energy equipment will be balanced against the need to preserve and protect public health and safety.

(B) **Types of Ground Mounted Solar Energy Equipment.**

- (1) **Solar Private.** Solar Private is a permitted accessory use in any zoning district and must abide by the bulk regulations, density and dimensional standards of the underlying zoning district in which it is located. All private solar requires a building permit prior to the initiation of construction.
- (2) **Solar Energy Generation Facility.** Solar Energy Generation Facility is permitted as a special use in the agricultural and industrial zoning districts and shall meet the requirements set forth in **Section 40-5-9(C)** (Standards for a Solar Energy Generation Facility), **Section 40-5-9(D)** (Maintenance and Operation Responsibility) and **Section 40-5-9(E)** (Decommissioning Plan).

(C) **Standards for a Solar Energy Generation Facility.**

- (1) **Setbacks.**
 - (a) All solar energy equipment and accessory structures of the facility, excluding perimeter fencing, must comply with front setbacks established in the underlying zoning district. In agricultural zoning districts, the setback for non-residential structures shall apply.
 - (b) All solar energy equipment and accessory structures of the facility, excluding perimeter fencing, must comply with side and rear setbacks established in the underlying zoning district for principal structures.
 - (i) In the case of a solar energy generation facility to be built on more than one parcel and the parcels are abutting, a zero side or rear setback shall be permitted to the property line in common with the abutting parcel(s).
 - (c) The horizontal separation distance from the solar energy generation facility to the nearest principal residential dwelling shall be at least **seventy-five (75) feet**. If the facility is to be located on a parcel with a principal residential dwelling, this **seventy-five (75) foot** setback shall not apply to the principal residential dwelling.
- (2) **Height.** All solar collectors, transformers, equipment or maintenance structures shall comply with the height restriction of the underlying zoning district.
- (3) **Minimum Conditions for Special Use Permit.**
 - (a) **Design and Installation.** Solar collectors shall be designed and located to avoid glare or reflection toward any inhabited

buildings on adjacent parcels. Solar collectors shall be designed and located to avoid glare or reflection toward any adjacent roadways and shall not interfere with traffic or create a traffic safety hazard.

- (b) **Lighting.** Lighting shall be limited to the extent required for security and safety purposes and to meet applicable federal, state, or local requirements. Except for federally required lighting, lighting shall be reasonably shielded from adjacent properties and, where feasible, directed downward to reduce light pollution.
- (c) **Security Fencing.** Facility equipment and structures shall be fully enclosed and secured by a perimeter fence with a height of **six (6) to eight (8) feet**. Lock boxes and keys shall be provided at locked entrances for emergency personnel.
- (d) **Warning Signage.** A visible warning sign of "High Voltage" shall be posted at all points of site ingress and egress and along the perimeter fence of the facility, at a maximum of **three hundred (300) feet** apart. A sign that includes the facility's 911 address and 24-hour emergency contact number shall be posted near all entrances to the facility.
- (e) **Utility Connection.** The applicant shall submit with the special use application a copy of a letter from the electric utility company confirming the review of the application for interconnection has started.
- (f) **Fire Safety.** It is the responsibility of the applicant to coordinate with the local fire protection district. The applicant shall submit with the special use application an approval letter from the local fire protection district.
- (g) **Roads.** Any roads that will be used for construction purposes and egress or ingress shall be identified and approved by the road jurisdiction. All applicable road and bridge weight limits shall be met during construction and maintenance. All applicable permits shall be acquired from the road jurisdiction prior to start of construction. The applicant shall submit with the special use application an approval letter from the road jurisdiction(s).
- (h) **Endangered Species and Wetlands.** Applicant shall seek natural resource consultation with the Illinois Department of Natural Resources (IDNR). The applicant shall submit with the special use application the results of the IDNR EcoCAT consultation. The cost of the EcoCAT consultation shall be paid by the applicant.
- (i) **Compliance with Additional Regulations.** It shall be the responsibility of the applicant to coordinate with the Federal Aviation Administration and other applicable federal or state authority to attain any additional required approval for the installation of a solar energy generation facility. The applicant shall submit with the special use application an approval letter from any federal or state authority requiring permit or approval.
- (j) **Special Use Fees.** At the time of filing the special use application, the applicant shall pay a filing fee in the amount of **Five Hundred Dollars (\$500.00)**, and, prior to any granting of a special use, reimburse the City for its legal, engineering and other costs and expenses incurred with respect to the application.

(4) **Maximum Conditions for a Building Permit.**

- (a) **Building Permit.** All solar energy generation facilities require a building permit prior to the initiation of construction. Three full sets of construction plans that conform to the manufacturer's standards and to the officially adopted codes of the City shall be submitted with the building permit application. Said plans shall be certified by an Illinois licensed professional engineer.
- (b) **Stormwater and Erosion Control.** All solar energy generation facilities must meet all applicable stormwater and erosion control ordinances and regulations.
- (c) **Installation Certification.** An Illinois licensed professional engineer shall certify that the construction and installation of the solar energy generation facility meets or exceeds the manufacturer's construction and installation standards and the officially adopted codes of the City.

(D) **Maintenance and Operation Responsibility.** The owner of the solar energy generation facility shall maintain facility grounds. Such maintenance shall include all actions necessary to keep the facility grounds free of litter and debris. The owner shall keep all fences maintained in good repair.

(E) **Decommissioning Plan.**

- (1) The solar energy generation facility shall be required to have a decommissioning plan to ensure it is properly removed upon the end of the project life or facility abandonment. For purposes of this Section, "facility abandonment" shall mean when no electricity is generated by the facility for a consecutive period of **two (2) years** or when the owner and/or operator of the solar energy generation facility has stated in writing to the City that the owner and/or operator intends to abandon, vacate, or cease solar energy creation operations indefinitely on a specified solar energy generation facility. The decommissioning plan shall state how the facility will be decommissioned. Decommissioning shall include removal of all structures (including solar energy equipment and fencing) and debris to a depth of **four (4) feet**, restoration of the soil, and restoration of vegetation within **six (6) months** of the end of project life or facility abandonment. The owner shall restore the land to a condition reasonably similar to its condition before the development of the solar energy generation facility, including replacement of topsoil, which may have been removed or eroded, and replacement of trees. A decommissioning plan shall be submitted and approved prior to the issuance of the building permit.
- (2) **Financial Security.** Appropriate means of financial security shall be required as part of the decommissioning plan. The security shall be in the name of the City for **one hundred percent (100%)** of the estimated cost of decommissioning. The estimated cost shall not include any projected salvage value of the solar energy equipment and other used equipment. The estimated cost shall be prepared by an Illinois licensed professional engineer.
 - (a) Security may be in the form of one of the following:
 - (i) Irrevocable Letter of Credit;
 - (ii) Continuous Surety Bond;
 - (iii) Cash Escrow Account; or
 - (iv) Any other means deemed acceptable by the City.
- (3) **Agreement.** The decommissioning plan shall also include an agreement between the applicant and the City which states:
 - (a) Financial security must remain valid through the life of the project. An updated decommissioning plan including estimated

costs prepared by an Illinois licensed professional engineer and financial security must be submitted to the City every **four (4) years;**

- (b) The City shall have access to the financial security funds for the express purpose of completing decommissioning if decommissioning is not completed by the owner within **six (6) months** of the end of project life or facility abandonment;
 - (c) The City is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning; and
 - (d) The City is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the City's right to seek reimbursement from owner or owner's successor for decommissioning costs which exceed the financial security and to file a lien against any real estate owned by the owner or owner's successor, or in which they have an interest, for the excess amount, and to take all steps allowed by law to enforce said lien.
- (4) **Release of Financial Security.** Financial security shall only be released when the City determines, after inspection, that the conditions of the decommissioning plan have been met.

(Ord. No. 2020-07; 11-20-20)

ARTICLE VI - DEVELOPMENT REGULATIONS

DIVISION I - ZONING DISTRICTS AND MAP

40-6-1 **ZONING DISTRICTS ESTABLISHED.** In order to carry out the purpose and intent of these regulations, the City is hereby divided into the following districts:

- Agricultural Districts
 - A-1 Agricultural Preservation
 - A-2 Agricultural
- Residential Districts
 - R-R Rural Residential
 - R-1 Low Density Residential
 - R-2 Medium Density Residential
 - R-3 High Density Residential
- Commercial Districts
 - C-1 Neighborhood Commercial
 - C-2 General Commercial
- Industrial Districts
 - I-1 Light Industrial
 - I-2 Heavy Industrial

40-6-2 **ZONING DISTRICT MAP.**

(A) **Purpose.** The purpose of the Zoning District Map is to set forth the boundaries of the zoning districts established in **Section 40-6-1 ("Zoning Districts Established")**.

(B) **Zoning Maps.** The location and boundaries of the districts established by these regulations are described on the Zoning District Map of the City, together with all explanatory matter thereon, as adopted by the City.

(C) **Maintenance of Map.** The Zoning District Map, as amended from time to time in accordance with the provisions of **Section 40-5-6 ("Text and Map Amendments")**, shall be kept on file and made available for public reference in the office of the Zoning Administrator.

(D) **Interpretation of Boundaries.** Where uncertainty exists with respect to the boundaries of the various zoning districts shown on the Zoning District Map, as amended, the Zoning Administrator shall determine the boundaries in accordance with the following rules:

- (1) District boundary lines are the center lines of highways, streets, alleys, easements, railroad rights-of-way, rivers and other bodies of water, or section, division of sections, tract and lot lines, or such lines extended, unless otherwise indicated.
- (2) Where a district boundary line divides a lot or tract in single ownership, the district regulations for either portion of the lot may extend to the entire lot, but not more than **twenty-five (25) feet** beyond the boundary line of the district.
- (3) Distances not specifically indicated on the Zoning District Map shall be determined by the scale of the Map.

(E) **Territory Added to City.** All territory which may hereafter be added to the City by annexation shall be classified as R-1 until otherwise reclassified by amendment.

40-6-3 **A-1 AGRICULTURAL PRESERVATION DISTRICT.**

(A) **Purpose.** The A-1 Agricultural District is established to conserve farmland and to encourage continued agricultural activities, thereby helping to ensure that sustainable agriculture will continue as a long-term land use and a viable economic activity within the City. The A-1 District is also established to preserve natural features and the rural landscape, while allowing low density residential

development that minimizes its impact on agricultural land, farming operations and sensitive environmental features. The preferred land use in the A-1 District is agriculture. The District is intended to permit a range of uses related to agriculture, to encourage the preservation of large blocks of farmland, and to permanently protect from development the tracts of land which remain after permitted residential development has occurred. More specifically, the District is established to severely restrict non-farm development in predominantly agricultural areas in order to:

- (1) preserve productive agricultural land for continued food and fiber production;
- (2) protect productive farms from encroachment by incompatible non-farm uses;
- (3) maintain the City's existing agricultural base to support agricultural processing and related service industries; and
- (4) preserve the maximum freedom of operation for those legitimate agricultural purposes permitted in this District.

(B)

Reserved.

(C)

Permitted Uses.

The following uses may be established as permitted uses in the A-1 District, in accordance with the procedures established in **Sections 40-5-4 ("Development Permitted as of Right")**:

(1) **Agriculture-Related Uses.**

- a. Agriculture – excluding the keeping of animals and animal and poultry husbandry. **(Ord. No. 2018-3; 04-10-18)**

(2) **Residential Uses.**

- (a) Dwellings, single-family detached;
- (b) Home occupations, non-impact or minor, as provided in **Section 40-7-2 ("Home Occupations")**;
- (c) Home occupations, major, as provided in **Section 40-7-2 ("Home Occupations")**, provided that the lot is greater than **five (5) acres** and is not located in a platted subdivision; and

(3) **Recreational Uses.**

- (a) Public parks, forest preserves and recreational areas, provided that any parking lots are landscaped in accordance with **Section 40-7-7.**

(4) **Miscellaneous Uses.**

- (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Uses and Structures")**;
- (b) Governmental uses, essential;
- (c) Non-exempt Public Utility Structures, provided that:
 1. No building is located within **twenty-five (25) feet** of a side lot line; and
 2. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
- (d) Signs, as provided in **Section 40-7-6 ("Signs")**.
- (e) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.
- (f) Solar Private. **(Ord. No. 2020-07; 11-20-20)**

(5) **Commercial Uses.**

- (a) Childcare homes, provided that the use is licensed by or registered with the State of Illinois.

(D)

Special Uses.

The following uses may be established as special uses in the A-1 District, in accordance with the procedures and standards set forth in **Section 40-5-3 ("Special Use Permits")**:

- (1) **Residential Uses.**
 - (a) Home occupations, major, as provided in **Section 40-7-2 ("Home Occupations")**, if the lot is less than **five (5) acres** and/or is located in a platted subdivision; and
- (2) **Commercial Uses.**
 - (a) Agriculturally related businesses;
 - (b) Airports, private, landing fields, and heliports, provided that the location and layout plan have been approved by the Department of Aeronautics of Illinois or the Federal Aviation Administration (FAA), and if within its jurisdiction, the Greater Peoria Airport Authority;
 - (c) Animal hospitals, animal clinics, and commercial kennels, provided:
 - 1. Lot size shall be **two (2)** or more acres;
 - 2. No treatment rooms or pens for large animals and no kennel shall be located closer than **two hundred (200) feet** from any off-site residential building or **one hundred (100) feet** from any property line, unless maintained within a completely enclosed building; and
 - 3. No objectionable odors are noticeable at or beyond the lot line.
 - (d) Greenhouses, commercial.
 - (e) Commercial Wind Energy Conversion Systems, provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.
- (3) **Miscellaneous Uses.**
 - (a) Places of worship; and
 - (b) Schools, other than boarding schools, provided that no building is located within twenty-five (25) feet of a side lot line.
 - (c) Historic Sites
 - (d) Solar Energy Generation Facility (**Ord. No. 2020-07; 11-20-20**)

(E) **Minimum Lot Sizes.** Except as provided by special use permit, all uses and structures in the A-1 Agricultural Preservation District shall have the minimum lot size set forth below.

- (1) **Minimum Lot Area.**
 - (a) Agriculture and telecommunications carrier facilities: n/a
 - (b) Other uses: 40 acres
 - (c) Dwellings existing prior to **January 1, 1997** may be sold off of an existing parcel, provided at least **one (1) acre** is deeded with the residence and the split meets exception 9 of the State Plat Act, as follows: the sale of a single lot of less than **five (5) acres** from a larger tract when a survey is made by an Illinois Registered Land 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.
- (2) **Minimum Lot Width At Building Line:**
 - (a) Agriculture and telecommunications carrier facilities: n/a
 - (b) Other uses: 200 feet

(F) **Minimum Setbacks.** The following minimum setback standards shall apply in the A-1 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.**
 - (a) **State:**
 - 1. **Residential:** **Seventy-five (75) feet** from the right-of-way or **one hundred thirty-five (135) feet** from the center of the right-of-way, whichever distance is greater.
 - 2. **Non-residential:** **Seventy-five (75) feet** from the right-of-way or **one hundred sixty (160) feet** from the center of the right-of-way, whichever distance is greater.
 - (b) **County Primary:**
 - 1. **Residential:** **Seventy-five (75) feet** from the right-of-way or **one hundred fifteen (115) feet** from the center of the right-of-way, whichever distance is greater.
 - 2. **Non-residential:** **One hundred (100) feet** from the right-of-way or **one hundred forty (140) feet** from the center of the right-of-way, whichever distance is greater.
 - (c) **Local Street:**
 - 1. **Residential:** **Twenty-five (25) feet** from the right-of-way.
 - 2. **Non-residential:** **Fifty (50) feet** from the right-of-way.
- (2) **Side.**
 - (a) **Principal structure:** Not less than **thirty (30) feet** from the property line.
 - (b) **Accessory structure:**
 - 1. If accessory structure is less than **two thousand (2,000) square feet**, not less than **fifteen (15) feet** from the property line.
 - 2. If accessory structure is **two thousand (2,000) square feet** or larger, not less than **thirty (30) feet** from the property line.
- (3) **Rear.**
 - (a) **Principal structure:** Not less than **thirty (30) feet** from the property line.
 - (b) **Accessory structure:**
 - 1. If accessory structure is less than **two thousand (2,000) square feet**, not less than **fifteen (15) feet** from the property line.
 - 2. If accessory structure is **two thousand (2,000) square feet** or larger, not less than **thirty (30) feet** from the property line.
- (4) **Front.** None.
- (G) **Maximum Lot Coverage.**
 - (1) **Agriculture and telecommunications carrier facilities:** n/a
 - (2) **Other uses:** No more than **ten percent (10%)** of the area of the lot may be occupied by structures.
- (H) **Height.**
 - (1) **Agriculture and telecommunications carrier facilities:** n/a
 - (2) **Other uses:** **Three (3) stories** or **thirty-six (36) feet** to the mean height of the roof, whichever is higher.
- (I) **Maximum Density/Intensity.**
 - (1) **Agriculture and telecommunications carrier facilities:** n/a
 - (2) **Single family dwellings:** 1 dwelling unit/40 acres
 - (3) **Other uses:** n/a

40-6-4 A-2 AGRICULTURAL DISTRICT.

(A) **Purpose.** The A-2 Agricultural District is established to protect and maintain the agricultural economy and the open space and natural features of rural areas of the City in order to:

- (1) protect lands for continued farming;
- (2) allow non-farm residential development on a limited basis; and
- (3) minimize conflicts between agricultural and non-agricultural areas.

The A-2 District is also established to protect those agricultural lands which, due to their location, soils, and use for agricultural activities, warrant protection from indiscriminate development. However, their proximity to existing development, combined with pressures for new development, makes these lands unsuitable for preservation according to the more restrictive regulations of the A-1 Agricultural Preservation District. The A-2 District is also intended to protect those agricultural lands that would otherwise be subject to residential subdivision activity which could render these important farmlands useless for farming.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the A-2 District, in accordance with the procedures established in **Sections 40-5-2 ("Development Permitted as of Right")**:

(1) **Agriculture-Related Uses.**

- (a) Agriculture.

(2) **Residential Uses.**

- (a) Dwellings, single-family detached, up to **four (4)** new dwellings at a density not to exceed **one (1)** new dwelling per **twenty-five (25)** contiguously owned acres, and provided the requirements for residential planned developments set forth in **Section 40-6-15(C)(1)(a) ("Planned Developments")** are met, and;
 - 1. Lots are created at the rate of **one (1) lot of one (1)** to **two (2) acres** per each **twenty -five (25)** contiguously owned acres.
 - 2. Parcels created pursuant to this Subsection may not be divided again, even if subsequently combined with other parcels.
- (b) Home occupations, non-impact or minor, as provided in **Section 40-7-2 ("Home Occupations")**;
- (c) Home occupations, major, as provided in **Section 40-7-2 ("Home Occupations")**, provided that the lot is greater than **five (5) acres** and is not located in a platted subdivision; and
- (d) Residential-care homes, small, provided that the use is licensed by the applicable State agency.

(3) **Commercial Uses.**

- (a) Greenhouses, commercial;
- (b) Childcare homes, provided that the use is licensed by or registered with the State of Illinois.

(4) **Recreational Uses.**

- (a) Public parks, forest preserves and recreational areas, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.

(5) **Miscellaneous Uses.**

- (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
- (b) Cemeteries, human;
- (c) Governmental uses, essential;
- (d) Non-exempt Public Utility Structures, provided that:
 - 1. No building is located within **twenty-five (25) feet** of a side lot line; and

- 2. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
- (e) Schools, other than boarding, provided that no building is located within **twenty-five (25) feet** of a side lot line; and
- (f) Signs, as provided in **Section 40-7-6 ("Signs")**.
- (g) Airports, public, provided that the location and layout plan have been approved by the Department of Aeronautics of Illinois or the Federal Aviation Administration (FAA).
- (h) Places of worship.
- (i) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.
- (j) Solar Private. **(Ord. No. 2020-07; 11-20-20)**

(C) **Special Uses.** The following uses may be established as special uses in the A-2 District, in accordance with the procedures and standards set forth in **Section 40-5-3 ("Special Use Permits")**:

- (1) **Residential Uses.**
 - (a) Dwellings, single-family detached, where the requirements for planned developments set forth in **Section 40-6-15(C)(1)(a) ("Planned Developments")** are met, and:
 - 1. Parcels created pursuant to this Subsection may not be divided again, even if subsequently combined with other parcels, unless a rezoning is granted by the City Council or unless each lot to be created meets the **twenty-five (25) acre** minimum lot size of the "A-2" Zoning District.
 - (b) Home occupations, major, as provided in **Section 40-7-2 ("Home Occupations")**, if the lot is less than **five (5) acres** and/or is located in a platted subdivision;
 - (c) Mobile home parks, provided they meet the requirements of **Section 40-7-11 ("Mobile Home Parks")**; and
 - (d) Residential-care homes (medium), with **six (6) – eight (8) residents**, provided that the use is licensed by the applicable State agency.
- (2) **Commercial Uses.**
 - (a) Agriculturally related businesses;
 - (b) Airports, private landing fields, and heliports, provided that the location and layout plan have been approved by the Department of Aeronautics of Illinois or the Federal Aviation Administration (FAA), and if within its jurisdiction, the Greater Peoria Airport Authority;
 - (c) Animal hospitals, animal clinics, and commercial kennels, provided:
 - 1. Lot size shall be **two (2)** or more acres;
 - 2. No treatment rooms or pens for large animals and no kennel shall be located closer than **two hundred (200) feet** from any off-site residential building or **one hundred (100) feet** from any property line, unless maintained within a completely enclosed building; and
 - 3. No objectionable odors are noticeable at or beyond the lot line.
 - (d) Auction houses;

- (e) Landscape contractors, provided:
 1. The minimum lot size is **two (2) acres**;
 2. No retail sales are permitted; and
 3. The business shall not be located in a recorded subdivision.
- (f) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight Accommodations")** and provided that:
 1. No more than **five (5) rooms** or suites of rooms are rented; and
 2. Rooms are not rented for a period of more than **fourteen (14) days**.
- (g) Commercial Wind energy Conversion systems, provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.

(3) **Recreational Uses.**

- (a) Camps;
- (b) Campgrounds;
- (c) Fairgrounds, state or county;
- (d) Golf courses, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (e) Recreational areas or facilities, private, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**;
- (f) Recreational vehicle parks, subject to the provisions of **Section 40-7-12 ("Recreational Vehicle Parks")**;
- (g) Sportsman's clubs, including accessory retail sales and services, provided they are:
 1. Directly related to the outdoor recreational use or natural feature; and
 2. Dependent on the nearness of such uses or features.
- (h) Speedways; and,
- (i) Zoos.

(4) **Miscellaneous Uses.**

- (a) Cemeteries, pet;
- (b) Convents, monasteries and seminaries, provided that the use is located on a lot at least **five (5) acres** in area;
- (c) Governmental uses, non-essential;
- (d) Halfway houses;
- (e) Mausoleums;
- (f) Mineral extraction facilities, as provided for in **Section 40-7-13 ("Mineral Extraction Facilities")**;
- (g) Schools, boarding, and colleges and universities, provided that the use is located on a lot at least **five (5) acres** in area; and
- (h) Historic Sites.
- (i) Solar Energy Generation Facility. (**Ord. No. 2020-07; 11-20-20**)

(D) **Minimum Lot Sizes.** Except as provided by **Section 40-6-4(B)(2)** or by special use permit, all uses and structures in the A-2 Agricultural District shall have the minimum lot size set forth below.

(1) **Minimum Lot Area.**

- (a) **Agriculture and telecommunications carrier facilities:** n/a
- (b) Lots or parcels for land which a deed has been recorded in the office of the Peoria County Recorder of Deeds upon or prior to the effective date of these regulations, or a lot or parcel of land

that would have been a lot of record if the document conveying the lot had been recorded on the date of its execution: one (1) acre

(c) **Other uses:** 25 acres.

(2) **Minimum Lot Width At Building Line.**

(a) **Agriculture and telecommunications carrier facilities:** n/a

(b) **Other uses:** 200 feet

(E) **Minimum Setbacks.** The following minimum setback standards shall apply in the A-2 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

(1) **Road.**

(a) **State:**

1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred thirty-five (135) feet** from the center of the right-of-way whichever is greater.
2. **Non-residential: Seventy-five (75) feet** from the right-of-way or **one hundred sixty (160) feet** from the center of the right-of-way whichever is greater.

(b) **County Primary:**

1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred fifteen (115) feet** from the center of the right-of-way, whichever distance is greater.
2. **Non-residential: One hundred (100) feet** from the right-of-way or **one hundred forty (140) feet** from the center of the right-of-way, whichever distance is greater.

(c) **Local Street:**

1. **Residential: Twenty-five (25) feet** from the right-of-way.
2. **Non-residential: Fifty (50) feet** from the right-of-way.

(2) **Side.**

(a) **Principal structure:** Not less than **thirty (30) feet** from the property line.

(b) **Accessory structure:**

1. If accessory structure is less than **two thousand (2,000) square feet**, not less than **fifteen (15) feet** from the property line.
2. If accessory structure is **two thousand (2,000) square feet** or larger, not less than **thirty (30) feet** from the property line.

(3) **Rear.**

(a) **Principal structure:** Not less than **thirty (30) feet** from the property line.

(b) **Accessory structure:** Not less than **fifteen (15) feet** from the property line.

1. If accessory structure is less than **two thousand (2,000) square feet**, not less than **fifteen (15) feet** from the property line.
2. If accessory structure is **two thousand (2,000) square feet** or larger, not less than **thirty (30) feet** from the property line.

(4) **Front.** None.

- (F) **Lot Coverage.**
 - (1) **Agriculture and telecommunications carrier facilities:** n/a
 - (2) **All other uses:** No more than **ten percent (10%)** of the area of the lot may be occupied by structures.
- (G) **Maximum Height.**
 - (1) **Agriculture and telecommunications carrier facilities:** n/a
 - (2) **All other uses:** **three (3) stories** or **thirty-six (36) feet** to the mean height of the roof, whichever is higher.
- (H) **Maximum Density/Intensity.**
 - (1) **Agriculture and telecommunications carrier facilities:** n/a
 - (2) **Single family dwellings:** 1 dwelling unit/25 acres
 - (3) **Commercial uses:** 0.1 FAR.

40-6-5 R-R RURAL RESIDENTIAL DISTRICT.

(A) **Purpose.** The R-R Rural Residential District is established to provide an opportunity for rural residential development in the City, to maintain areas that are developed with single family detached housing on larger parcels, and to preserve open space and natural features. Parcels zoned R-R should be low density development with larger lots to accommodate the need for individual wells and septic systems.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the R-R District, in accordance with the procedures established in **Sections 40-5-2 ("Development Permitted as of Right")**:

- (1) **Reserved.**
- (2) **Residential Uses.**
 - (a) Dwellings, single-family detached;
 - (b) Home occupations, non-impact or minor, as provided in **Section 40-7-2 ("Home Occupations")**; and
 - (c) Residential-care homes, small, provided that the use is licensed by the applicable State agency.
- (3) **Recreational Uses.**
 - (a) Public parks, forest preserves and recreational areas, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (4) **Miscellaneous Uses.**
 - (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
 - (b) Governmental uses, essential;
 - (c) Non-exempt Public Utility Structures, provided that:
 - 1. No building is located within **twenty-five (25) feet** of a side lot line; and
 - 2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
 - 3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
 - (d) Schools, other than boarding schools, provided that no building is located within **twenty-five (25) feet** of a side lot line; and
 - (e) Signs, as provided in **Section 40-7-6 ("Signs")**.
 - (f) Solar Private. (**Ord. No. 2020-07; 11-20-20**)
- (5) **Commercial Uses.**
 - (a) Childcare homes, provided that the use is licensed by or registered with the State of Illinois.

(C) **Special Uses.** The following uses may be established as special uses in the R-R District, in accordance with the procedures and standards set forth in **Section 40-5-5 ("Special Use Permits")**:

- (1) **Residential Uses.**
 - (a) Home occupations, major, as provided in **Section 40-7-2 ("Home Occupations")**;
 - (b) Mobile home parks, provided they meet the requirements of **Section 40-7-11 ("Mobile Home Parks")**;
 - (c) Nursing homes;
 - (d) Residential-care homes, medium and large, provided that the use is licensed by the applicable State agency;
 - (e) Residential planned developments, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**.
- (2) **Commercial Uses.**
 - (a) Animal hospitals, animal clinics, and commercial kennels, provided:
 1. Lot size shall be **two (2)** or more acres if large animals (such as horses, cows, sheep, llamas, ostriches, and hogs) are to be treated;
 2. No treatment rooms or pens for large animals and no kennel shall be located closer than **two hundred (200) feet** from any off-site residential building or **one hundred (100) feet** from any property line, unless maintained within a completely enclosed building; and
 3. No objectionable odors are noticeable at or beyond the lot line.
 - (b) Clinics, and medical and dental offices;
 - (c) Greenhouses, commercial;
 - (d) Landscape contractors, provided:
 1. The minimum lot size is **two (2) acres**;
 2. No retail sales are permitted; and
 3. The business shall not be located in a recorded subdivision.
 - (e) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight Accommodations")** and provided that:
 1. No more than **five (5) rooms** or suites of rooms are rented; and
 2. Rooms are not rented for a period of more than **fourteen (14) days**.
- (3) **Recreational Uses.**
 - (a) Golf courses, including uses normally ancillary to such uses, such as restaurants, but not including commercially operated miniature golf courses, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**; and
 - (b) Recreational areas or facilities, private, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (4) **Miscellaneous Uses.**
 - (a) Cemeteries, human;
 - (b) Cemeteries, pet;
 - (c) Community centers;
 - (d) Convents, monasteries and seminaries, provided that:

1. The use is located on a lot at least **five (5) acres** in area;
 2. No building is located within **twenty-five (25) feet** of a side lot line; and
 3. The use is located no closer than **one thousand (1,000) feet** to any other boarding school, college, seminary, convent, or monastery.
- (e) Governmental uses, non-essential;
- (f) Mausoleums;
- (g) Places of worship; and
- (h) Schools, boarding, and colleges and universities provided that:
1. The use is located on a lot at least **five (5) acres** in area;
 2. No building is located within **twenty-five (25) feet** of a side lot line; and
 3. The use is located no closer than **one thousand (1,000) feet** to any other boarding school, college, seminary, convent, or monastery.
- (i) Historic Sites.
- (j) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.

(D) **Minimum Lot Sizes.** Except as provided by special use permit, all uses and structures in the R-R Rural Residential District shall have the minimum lot size set forth below.

- (1) **Minimum Lot Area.**
 - (a) **Telecommunications carrier facilities:** n/a
 - (b) **Other uses: one (1) acre (43,560 square feet)**
- (2) **Minimum Lot Width.**
 - (a) **Telecommunications carrier facilities:** n/a
 - (b) **Other uses: One hundred fifty (150) feet** at the building line

(E) **Minimum Setbacks.** The following minimum setback standards shall apply in the R-R District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.** The minimum standard for Road setbacks is the lesser of (1) the standard listed below, (2) the average of the setback of developed abutting lots (not applicable for corner lots), or (3) the average of the setback of developed lots nonconforming for road setback when those lots constitute the majority of developed lots in the block. **(Ord. No. 2014-1; 07-07-14)**
 - (a) **State:**
 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred thirty-five (135) feet** from the center of the right-of-way whichever distance is greater.
 2. **Non-residential: Seventy-five (75) feet** from the right-of-way or **one hundred sixty (160) feet** from the center of the right-of-way whichever distance is greater.
 - (b) **County Primary:**
 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred fifteen (115) feet** from the center of the right-of-way, whichever distance is greater.

- 2. **Non-residential:** One hundred (100) feet from the right-of-way or one hundred forty (140) feet from the center of the right-of-way, whichever distance is greater.
- (c) **Local Street:**
 - 1. **Residential:** Twenty-five (25) feet from the right-of-way.
 - 2. **Non-residential:** Fifty (50) feet from the right-of-way.
- (2) **Side.**
 - (a) **Principal structure:**
 - 1. Not less than thirty (30) feet from the property line if on septic system.
 - 2. Not less than fifteen (15) feet from the property line if on public sewer.
 - (b) **Accessory structure:**
 - 1. If accessory structure is less than two thousand (2,000) square feet, not less than fifteen (15) feet from the property line.
 - 2. If accessory structure is two thousand (2,000) square feet or larger, not less than thirty (30) feet from the property line.
- (3) **Rear.**
 - (a) **Principal structures:** Not less than thirty (30) feet from the property line.
 - (b) **Accessory structures:**
 - 1. If accessory structure is less than two thousand (2,000) square feet, not less than fifteen (15) feet from the property line.
 - 2. If accessory structure is two thousand (2,000) square feet or larger, not less than twenty-five (25) feet from the property line.
- (4) **Front.** None.
- (F) **Maximum Lot Coverage.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **All other uses:** No more than twenty percent (20%) of the area of the lot may be occupied by structures.
- (G) **Maximum Height.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **All other uses:** Three (3) stories or thirty-six (36) feet to the mean height of the roof, whichever is higher.
- (H) **Maximum Density/Intensity.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **Single family dwellings:** 1 dwelling unit/1 acre.
 - (3) **Nonresidential uses:** 0.2 FAR.

40-6-6

R-1 LOW DENSITY RESIDENTIAL DISTRICT.

(A) **Purpose.** The R-1 Low Density Residential District is established to provide for single family detached housing opportunities in an urban setting at a low density and to preserve open space and natural features. Parcels zoned R-1 could be served by either individual septic systems or public sewer based on requirements established by the Peoria City/County Health Department.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the R-1 District, in accordance with the procedures established in **Sections 40-5-4 ("Development Permitted as of Right")**:

- (1) **Reserved.**
- (2) **Residential Uses.**
 - (a) Dwellings, single-family detached;
 - (b) Home occupations, non-impact or minor, as provided in **Section 40-7-2 ("Home Occupations")**;
 - (c) Residential-care homes, small, provided that the use is licensed by the applicable State agency.
- (3) **Recreational Uses.**
 - (a) Public parks, forest preserves and recreational areas, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (4) **Miscellaneous Uses.**
 - (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
 - (b) Governmental uses, essential;
 - (c) Non-exempt Public Utility Structures, provided that:
 - 1. No building is located within **twenty-five (25) feet** of a side lot line; and
 - 2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
 - 3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
 - (d) Schools, other than boarding schools, provided that no building is located within **twenty-five (25) feet** of a side lot line; and
 - (e) Signs, as provided in **Section 40-7-6 ("Signs")**.
 - (f) Solar Private. (**Ord. No. 2020-07; 11-20-20**)
- (5) **Commercial Uses**
 - (a) Childcare homes, provided that the use is licensed by or registered with the State of Illinois.

(C) **Special Uses.** The following uses may be established as special uses in the R-1 District, in accordance with the procedures and standards set forth in **Section 40-5-3 ("Special Use Permits")**:

- (1) **Residential Uses.**
 - (a) Home occupations, major, as provided in **Section 40-7-2 ("Home Occupations")**;
 - (b) Nursing homes;
 - (c) Residential-care homes, medium and large, provided that the use is licensed by the applicable State agency;
 - (d) Residential planned developments, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**.
- (2) **Commercial Uses.**
 - (a) Clinics, and medical and dental offices;
 - (b) Landscape contractors, provided:
 - 1. The minimum lot size is **two (2) acres**;
 - 2. No retail sales are permitted; and
 - 3. The business shall not be located in a recorded subdivision.
 - (c) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight Accommodations")** and provided that:

1. No more than **five (5) rooms** or suites of rooms are rented; and
2. Rooms are not rented for a period of more than **fourteen (14) days**.

(3) **Recreational Uses.**

- (a) Golf courses, including uses normally ancillary to such uses, such as restaurants, but not including commercially operated miniature golf courses, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**; and
- (b) Recreational areas or facilities, private, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.

(4) **Miscellaneous Use.**

- (a) Cemeteries, human;
- (b) Community centers;
- (c) Convents, monasteries and seminaries, provided that:
 1. The use is located on a lot at least **five (5) acres** in area;
 2. No building is located within **twenty-five (25) feet** of a side lot line; and
 3. The use is located no closer than **one thousand (1,000) feet** to any other boarding school, college, seminary, convent, or monastery.
- (d) Governmental uses, non-essential;
- (e) Mausoleums;
- (f) Places of worship; and
- (g) Schools, boarding, and colleges and universities provided that:
 1. The use is located on a lot at least **five (5) acres** in area;
 2. No building is located within **twenty-five (25) feet** of a side lot line; and
 3. The use is located no closer than **one thousand (1,000) feet** to any other boarding school, college, seminary, convent, or monastery.
- (h) Historic Sites.
- (i) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")** of these regulations are met.

(D) **Minimum Lot Sizes.** Except as provided by special use permit, all uses and structures in the R-1 Low Density Residential District shall have the minimum lot size set forth below.

(1) **Minimum Lot Area.**

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** one-half (1/2) acre (21,780 square feet)

(2) **Minimum Lot Width.**

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** **One hundred twenty-five (125) feet** at the building line if served by septic system **one hundred (100) feet** at the building line if on public sewer.

(E) **Minimum Setbacks.** The following minimum setback standards shall apply in the R-1 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.** The minimum standard for Road setbacks is the lesser of (1) the standard listed below, (2) the average of the setback of developed abutting lots (not applicable for corner lots), or (3) the average of the

setback of developed lots nonconforming for road setback when those lots constitute the majority of developed lots in the block. **(Ord. No. 2014-1; 01-07-14)**

- (a) **State:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred thirty-five (135) feet** from the center of the right-of-way whichever distance is greater.
 - 2. **Non-residential: Seventy-five (75) feet** from the right-of-way or **one hundred sixty (160) feet** from the center of the right-of-way whichever distance is greater.
- (b) **County Primary:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred fifteen (115) feet** from the center of the right-of-way, whichever distance is greater.
 - 2. **Non-residential: One hundred (100) feet** from the right-of-way or **one hundred forty (140) feet** from the center of the right-of-way, whichever distance is greater.
- (c) **Local Street:**
 - 1. **Residential: Twenty-five (25) feet** from the right-of-way.
 - 2. **Non-residential: Fifty (50) feet** from the right-of-way.
- (2) **Side.**
 - (a) **Principal structure:** Not less than **fifteen (15) feet** from the property line.
 - (b) **Accessory structure:** Not less than **fifteen (15) feet** from the property line.
- (3) **Rear.**
 - (a) **Principal structure:** Not less than **twenty-five (25) feet** from the property line.
 - (b) **Accessory structure:** Not less than **fifteen (15) feet** from the property line.
- (4) **Front.** None.
- (F) **Maximum Lot Coverage.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **All other uses:** No more than **thirty percent (30%)** of the area of the lot may be occupied by structures.
- (G) **Maximum Height.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **All other uses:** **Three (3) stories** or **thirty-six (36) feet** to the mean height of the roof, whichever is higher.
- (H) **Maximum Density/Intensity.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **Single family dwellings:** 1 dwelling unit/.5 acre
 - (3) **Nonresidential uses:** 0.2 FAR

40-6-7

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.

(A) **Purpose.** The R-2 Medium Density Residential District is established to provide a limited selection of residential opportunities at a medium density, including both single family detached and two-family housing, and to preserve open space and natural features. Parcels in the R-2 District may be served by either individual septic systems or public sewer. It is intended that new development in this

district will be at a density capable of being served by urban services such as public water and sewer based on requirements established by the Peoria City/County Health Department.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the R-2 District, in accordance with the procedures established in **Sections 40-5-2 ("Development Permitted as of Right")**:

- (1) **Reserved.**
- (2) **Residential Uses.**
 - (a) Dwellings, single-family detached and two (2) family;
 - (b) Home occupations, non-impact or minor, as provided in **Section 40-7-2 ("Home Occupations")**;
 - (c) Residential-care homes, small, provided that the use is licensed by the applicable State agency; and
 - (d) Residential-care homes, medium, provided that the use is licensed by the applicable State agency.
- (3) **Recreational Uses.**
 - (a) Public parks, forest preserves and recreational areas, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (4) **Miscellaneous Uses.**
 - (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
 - (b) Governmental uses, essential;
 - (c) Non-exempt Public Utility Structures, provided that:
 - 1. No building is located within **twenty-five (25) feet** of a side lot line; and
 - 2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
 - 3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
 - (d) Schools, other than boarding schools, provided that no building is located within **twenty-five (25) feet** of a side lot line; and
 - (e) Signs, as provided in **Section 40-7-6 ("Signs")**.
 - (f) Solar Private. (**Ord. No. 2020-07; 11-20-20**)
- (5) **Commercial Uses.**
 - (a) Childcare homes, provided that the use is licensed by or registered with the State of Illinois.

(C) **Special Uses.** The following uses may be established as special uses in the R-2 District, in accordance with the procedures and standards set forth in **Section 40-5-5 ("Special Use Permits")**:

- (1) **Residential Uses.**
 - (a) Home occupations, major, as provided in **Section 40-7-2 ("Home Occupations")**;
 - (b) Nursing homes;
 - (c) Residential-care homes, large, provided that the use is licensed by the applicable State agency;
 - (d) Residential planned developments, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**.

- (2) **Commercial Uses.**
 - (a) Clinics, and medical and dental offices;
 - (b) Funeral parlors; and
 - (c) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight Accommodations")** and provided that:
 - 1. No more than **five (5) rooms** or suites of rooms are rented; and
 - 2. Rooms are not rented for a period of more than **fourteen (14) days.**
- (3) **Recreational Uses.**
 - (a) Golf courses, including uses normally ancillary to such uses, such as restaurants, but not including commercially operated miniature golf courses, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**; and
 - (b) Recreational areas or facilities, private, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F).**
- (4) **Miscellaneous Uses.**
 - (a) Cemeteries, human;
 - (b) Community centers;
 - (c) Convents, monasteries and seminaries, provided that:
 - 1. The use is located on a lot at least **five (5) acres** in area;
 - 2. No building is located within **twenty-five (25) feet** of a side lot line; and
 - 3. The use is located no closer than **one thousand (1,000) feet** to any other boarding school, college, seminary, convent, or monastery.
 - (d) Governmental uses, non-essential;
 - (e) Mausoleums;
 - (f) Places of worship; and
 - (g) Schools, boarding, and colleges and universities provided that:
 - 1. The use is located on a lot at least **five (5) acres** in area;
 - 2. No building is located within **twenty-five (25) feet** of a side lot line; and
 - 3. The use is located no closer than **one thousand (1,000) feet** to any other boarding school, college, seminary, convent, or monastery.
 - (h) Historic Sites.
 - (i) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")** of these regulations are met.

(D) **Minimum Lot Sizes.** Except as provided by special use permit, all uses and structures in the R-2 Medium Density Residential District shall have the minimum lot size set forth below.

- (1) **Minimum Lot Area.**
 - (a) **Telecommunications carrier facilities:** n/a
 - (b) **Other uses:** **one-half (1/2) acre (21,780 square feet)** if served by private sewage disposal or **one-fourth (1/4) acre (10,890 square feet)** if served by community sewer system. Each additional unit shall add **four thousand (4,000) square feet.**
- (2) **Minimum Lot Width.**
 - (a) **Telecommunications carrier facilities:** n/a

- (b) **Other uses:** **One hundred (100) feet** at the building line if private sewage disposal; or **eighty (80) feet** at the building line if community sewer system.

(E) **Minimum Setbacks.** The following minimum setback standards shall apply in the R-2 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.** The minimum standard for Road setbacks is the lesser of (1) the standard listed below, (2) the average of the setback of developed abutting lots (not applicable for corner lots), or (3) the average of the setback of developed lots nonconforming for road setback when those lots constitute the majority of developed lots in the block. **(Ord. No. 2014-1; 01-07-14)**

- (a) **State:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred thirty-five (135) feet** from the center of the right-of-way whichever distance is greater.
 - 2. **Non-residential: Seventy-five (75) feet** from the right-of-way or **one hundred sixty (160) feet** from the center of the right-of-way whichever distance is greater.

- (b) **County Primary:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred fifteen (115) feet** from the center of the right-of-way, whichever distance is greater.
 - 2. **Non-residential: One hundred (100) feet** from the right-of-way or **one hundred forty (140) feet** from the center of the right-of-way, whichever distance is greater.

- (c) **Local Street:**
 - 1. **Residential: Twenty-five (25) feet** from the right-of-way.
 - 2. **Non-residential: Fifty (50) feet** from the right-of-way.

- (2) **Side.**
 - (a) **Principal structure: excepting duplexes:** Not less than **ten percent (10%)** of the lot width at the building line. The maximum shall be **fifteen (15) feet**, and the minimum shall be **five (5) feet** from the property line.
 - (b) **Duplex principal structure:** A zero lot line setback shall be permitted for the interior side setback (common wall), provided that the required minimum lot width and minimum lot area of **Section 40-6-7(D)** of this Code are met. Exterior side setback shall be not less than **ten percent (10%)** of the lot width at the building line. The maximum shall be **fifteen (15) feet**, and the minimum shall be **five (5) feet** from the property line.
 - (c) **Accessory structure:** Not less than **five (5) feet** from the property line. The side yard may be reduced to **three (3) feet** provided the accessory structure is in the rear **one-third (1/3)** of the lot.

- (3) **Rear.**
 - (a) **Principal structure:** Not less than **fifteen (15) feet** from the property line.

- (b) **Accessory structure:** Not less than **five (5) feet** from the property line.
- (4) **Front.** None.
- (F) **Maximum Lot Coverage.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **All other uses:** No more than **forty percent (40%)** of the area of the lot may be occupied by structures.
- (G) **Maximum Height.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **All other uses:** **Three (3) stories** or **thirty-six (36) feet** to the mean height of the roof, whichever is higher.
- (H) **Maximum Density/Intensity.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **Single family dwellings:**
 - (a) **One (1)** dwelling unit/.5 acre with private sewage disposal system
 - (b) **One (1)** dwelling unit/.25 acre with community sewer system
 - (3) **Two-family dwellings:** Add **four thousand (4,000) square feet** per additional unit.
 - (4) **Other uses:** 0.2 FAR.

40-6-8

R-3 HIGH DENSITY, MULTI-FAMILY RESIDENTIAL DISTRICT.

(A) **Purpose.** The R-3 High Density, Multi-Family Residential District is established to provide a variety of residential opportunities at a high density, including single family detached, single family attached, two-family, and multi-family housing. Parcels zoned R-3 should have direct access to both public water and sewer service so as to accommodate the denser population, and access to an arterial street to accommodate the increase in traffic generation.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the R-3 District, in accordance with the procedures established in **Sections 40-5-2 ("Development Permitted as of Right")**:

- (1) **Reserved.**
- (2) **Residential Uses.**
 - (a) Dwellings, single-family detached, two (2) family, townhouse, and multi-family;
 - (b) Home occupations, non-impact or minor, as provided in **Section 40-7-2 ("Home Occupations")**;
 - (c) Residential-care homes, small, provided that the use is licensed by the applicable State agency;
 - (d) Residential-care homes, medium, provided that the use is licensed by the applicable State agency; and
 - (e) Residential-care homes, large, provided that the use is licensed by the applicable State agency;
- (3) **Permitted, Commercial Uses.**
 - (a) Childcare homes, provided that the use is licensed by or registered with the State of Illinois.
- (4) **Recreational Uses.**
 - (a) Public parks and recreational areas, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (5) **Miscellaneous Uses.**
 - (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
 - (b) Governmental uses, essential;
 - (c) Non-exempt Public Utility Structures, provided that:

1. No building is located within **twenty-five (25) feet** of a side lot line; and
 2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
 3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
- (d) Schools, other than boarding schools, provided that no building is located within **twenty-five (25) feet** of a side lot line; and
- (e) Signs, as provided in **Section 40-7-6 ("Signs")**.
- (f) Solar Private. (**Ord. No. 2020-07; 11-20-20**)

(C) **Special Uses.** The following uses may be established as special uses in the R-3 District, in accordance with the procedures and standards set forth in **Section 40-5-3 ("Special Use Permits")**:

- (1) **Residential Uses.**
 - (a) Nursing homes; and
 - (b) Residential planned developments, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**.
- (2) **Commercial Uses.**
 - (a) Automated teller machines;
 - (b) Clinics, and medical and dental offices;
 - (c) Commercial retail establishments, not exceeding a floor area of **five thousand (5,000) square feet**;
 - (d) Convenience stores;
 - (e) Financial institutions;
 - (f) Funeral parlors;
 - (g) Hospitals;
 - (h) Offices;
 - (i) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight Accommodations")** and provided that:
 1. No more than **five (5) rooms** or suites of rooms are rented; and
 2. Rooms are not rented for a period of more than **fourteen (14) days**.
 - (j) Personal service establishments, not exceeding a floor area of **five thousand (5,000) square feet**; and
 - (k) Restaurants.
- (3) **Recreational Uses.**
 - (a) Clubs and lodges;
 - (b) Golf courses, including uses normally ancillary to such uses, such as restaurants, but not including commercially operated miniature golf courses, provided that such ancillary uses, and parking, are landscaped in accordance with **Section 40-7-7(F)**.
 - (c) Recreational areas or facilities, private, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (4) **Miscellaneous Uses.**
 - (a) Community centers;
 - (b) Convents, monasteries and seminaries, provided that the use is located no closer than **one thousand (1,000) feet** to any other private school, college, seminary, convent, or monastery;

- (c) Governmental uses, nonessential;
- (d) Museums, civic and cultural centers;
- (e) Places of worship; and
- (f) Schools, boarding, and colleges and universities provided that the use is located no closer than **one thousand (1,000) feet** to any other private school, college, seminary, convent, or monastery.
- (g) Historic Sites.
- (h) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")** of these regulations are met.

(D) **Minimum Lot Sizes.** Except as provided by special use permit, all uses and structures in the R-3 High Density Residential District shall have the minimum lot size set forth below:

- (1) **Minimum Lot Area.**
 - (a) **Telecommunications carrier facilities:** n/a
 - (b) **Other uses: One-half (1/2) acre** if served by private sewage disposal; or **six thousand (6,000) square feet** if served by community sewer system. Each additional unit shall add **three thousand (3,000) square feet**.
- (2) **Minimum Lot Width.**
 - (a) **Telecommunications carrier facilities:** n/a
 - (b) **Other uses: One hundred (100) feet** at the building line if private sewage disposal; or **fifty (50) feet** at the building line if community sewer system.

(E) **Minimum Setbacks.** The following minimum setback standards shall apply in the R-3 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.** The minimum standard for Road setbacks is the lesser of (1) the standard listed below, (2) the average of the setback of developed abutting lots (not applicable for corner lots), or (3) the average of the setback of developed lots nonconforming for road setback when those lots constitute the majority of developed lots in the block. **(Ord. No. 2014-1; 01-07-14)**
 - (a) **State:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred thirty-five (135) feet** from the center of the right-of-way whichever distance is greater.
 - 2. **Non-residential: Seventy-five (75) feet** from the right-of-way or **one hundred sixty (160) feet** from the center of the right-of-way whichever distance is greater.
 - (b) **County Primary:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred fifteen (115) feet** from the center of the right-of-way, whichever distance is greater.
 - 2. **Non-residential: One hundred (100) feet** from the right-of-way or **one hundred forty (140) feet** from the center of the right-of-way, whichever distance is greater.
 - (c) **Local Street:**
 - 1. **Residential: Twenty-five (25) feet** from the right-of-way.

2. **Non-residential:** Fifty (50) feet from the right-of-way.
- (2) **Side.**
- (a) **Principal structure:**
 1. **Single and two-family dwellings, excepting duplexes:** Not less than **ten percent (10%)** of the lot width at the building line. The maximum shall be **fifteen (15) feet**, and the minimum shall be **five (5) feet** from the property line.
 2. **Duplexes:** A zero lot line setback shall be permitted for the interior side setback (common wall), provided that the required minimum lot width and minimum lot area of **Section 40-6-8** of this Code are met. Exterior side setback shall be not less than **ten percent (10%)** of the lot width at the building line. The maximum shall be **fifteen (15) feet**, and the minimum shall be **five (5) feet** from the property line.
 3. **Other uses:** Not less than **twenty (20) feet** from the property line.
 - (b) **Accessory structure:** Not less than **ten percent (10%)** of the width of the lot at the building line. The maximum shall be **fifteen (15) feet**, and the minimum shall be **five (5) feet** from the property line.
- (3) **Rear.**
- (a) **Principal structures:** Not less than **twenty (20) feet** from the property line.
 - (b) **Accessory structures:** Not less than **five (5) feet** from the property line.
- (4) **Front.** None.
- (F) **Maximum Lot Coverage.**
- (1) **Telecommunications carrier facilities:** n/a
 - (2) **All other uses:** No more than **fifty percent (50%)** of the area of the parcel proposed for residential development and no more than **sixty percent (60%)** of the area of the parcel proposed for nonresidential development shall be impervious.
- (G) **Maximum Height.**
- (1) **Telecommunications carrier facilities:** n/a
 - (2) **Single family attached and detached:** **Three (3) stories** or **thirty-six (36) feet** to the mean height of the roof and no more than **fourteen (14) feet** higher than an adjacent structure.
 - (3) **All other uses:** **Six (6) stories** or **seventy-five (75) feet** in height to the highest point, provided that the applicant receives approval from the local fire official stating that the fire department will be able to provide adequate fire protection for the proposed development.
- (H) **Maximum Density/Intensity.**
- (1) **Telecommunications carrier facilities:** n/a
 - (2) **Single family dwellings:**
 - (a) **One (1)** dwelling unit/.5 acre with private sewage disposal system
 - (b) **One (1)** dwelling unit/6,000 square feet with community sewer system
 - (3) **Two-family and multi-family dwellings:** Add **three thousand (3,000) square feet** per additional unit.
 - (4) **Other uses:** 0.2 FAR.

40-6-9 C-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

(A) **Purpose.** The C-1 Neighborhood Commercial District is established to provide for limited residential and nonresidential uses meeting the day-to-day convenience shopping and service needs of persons residing in the district and adjacent residential areas. The desired character of the district will be attained by providing substantial buffering, restricting the maximum size of all buildings, encouraging innovative design techniques, and by preserving open spaces and natural features, all of which are intended to minimize the impacts to adjacent residential districts. This District is intended to provide uses that are on a more intimate, pedestrian-oriented scale than those uses located in the more intensive commercial districts. In addition, this District is meant to contain uses that are developed on public water and sewer.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the C-1 District, in accordance with the procedures set forth in **Section 40-5-2 ("Development Permitted as of Right")**:

(1) **Reserved.**

(2) **Residential Uses.**

- (a) Single Family, Two-Family and Townhouse Dwellings, provided that no dwelling units are located on the street level;
- (b) Home occupations, non-impact, as provided in **Section 40-7-2 ("Home Occupations")**; and
- (c) Multi-Family Dwellings.

(Ord. No. 2019-04; 06-18-19)

(3) **Commercial/Office Uses.**

- (a) Automated teller machines;
- (b) Childcare centers, provided that the use is licensed by or registered with the State of Illinois.
- (c) Clinics, and medical and dental offices;
- (d) Clubs and lodges, not exceeding a floor area of **five thousand (5,000) square feet**;
- (e) Commercial retail establishments, not exceeding a floor area of **five thousand (5,000) square feet**, located in clustered arrangements and adjacent to collector or arterial roads;
- (f) Convenience stores;
- (g) Drive-through service windows, provided that:
 - 1. The principal use is an office, retail establishment, or financial institution located on the same lot; and
 - 2. The amount of stacking space and circulation patterns on the lot meet the requirements set forth in **Section 40-7-8 ("Parking and Loading Requirements")**.
- (h) Financial institutions;
- (i) Funeral parlors;
- (j) Markets, open and outside;
- (k) Offices, not exceeding a floor area of **five thousand (5,000) square feet**;
- (l) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight Accommodations")** and provided that:
 - 1. No more than **eight (8) rooms** or suites are rented; and
 - 2. No rooms are rented for a period of more than **fourteen (14) days**.
- (m) Personal service establishments, not exceeding a floor area of **five thousand (5,000) square feet**;
- (n) Restaurants, not exceeding a floor area of **five thousand (5,000) square feet**;

- (o) Gas Station Convenience Stores, provided that, no more than **four (4)** fuel stations are provided, and the accessory retail space is less than **five thousand (5,000) square feet** in gross floor area. Included in that **five thousand (5,000) square feet** is space for restaurant facilities.

- (p) Automobile Sales provided the use is located on a parcel less than **one-half (1/2) acre** or **21,780 square feet**.

- (q) Dance Hall.

(4) **Recreational Uses.**

- (a) Public parks, playgrounds and recreational areas, less than **four (4) acres** in area.

(5) **Miscellaneous Uses.**

- (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;

- (b) Community centers;

- (c) Governmental uses, essential and non-essential;

- (d) Museums, civic and cultural centers;

- (e) Non-exempt Public Utility Structures, provided that:

1. No building is located within **twenty-five (25) feet** of a side lot line; and
2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.

- (f) Places of worship;

- (g) Schools, other than boarding schools; and

- (h) Signs, as provided in **Section 40-7-6 ("Signs")**.

- (i) Historic Sites.

- (j) Solar Private. **(Ord. No. 2020-07; 11-20-20)**

(C) **Special Uses.** The following uses may be established as special uses in the C-1 District, in accordance with the procedures and standards set forth in **Section 40-5-3 ("Special Use Permits")**:

(1) **Residential Uses.**

- (a) Home occupations, minor, as provided in **Section 40-7-2 ("Home Occupations")**; and

- (b) Nursing homes;

(2) **Commercial/Office Uses.**

- (a) Adult-Use Cannabis Craft Grower Organization;

- (b) Adult-Use Cannabis Cultivation Organization;

- (c) Adult-Use Cannabis Dispensing Organization;

- (d) Adult-Use Cannabis Infuser Organization;

- (e) Adult-Use Cannabis Processing Organization;

- (f) Adult-Use Cannabis Transporting Organization;

- (g) Animal hospitals, animal clinics, commercial kennels, and pounds;

- (h) Automobile service stations;

- (i) Car washes;

- (j) Clubs and lodges with a floor area of greater than **five thousand (5,000) square feet**;

- (k) Commercial retail establishments with a floor area of greater than **five thousand (5,000) square feet**;

- (l) Drive-through service windows, provided that:
 1. The principal use is a restaurant located on the same lot; and
 2. The amount of stacking space and circulation patterns on the lot meet the requirements set forth in **Section 40-7-8 ("Parking and Loading Requirements")**.
- (m) Hospitals;
- (n) Offices, exceeding a floor area of **five thousand (5,000) square feet**;
- (o) Personal service establishments with a floor area of greater than **five thousand (5,000) square feet**;
- (p) Planned developments, nonresidential, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**;
- (q) Restaurants, exceeding a floor area of **five thousand (5,000) square feet**;
- (r) Taverns, not exceeding a floor area of **five thousand (5,000) square feet**, provided they are located no closer than **five hundred (500) feet** from any residential district, religious institution, or school;
- (s) Theaters, except open-air drive-in.
- (t) Gas Station Convenience Stores when more than **four (4)** fuel stations are desired or when the accessory retail space, which may include restaurant facilities, is greater than **five thousand (5,000) square feet** in gross floor area.
- (u) Automobile Sales when the use is located on a parcel greater than **one-half (1/2) acre** or **21,780 square feet**.

(Ord. No. 2020-08; 12-03-20)

(3) Recreational Uses.

- (a) Health clubs and fitness centers; and
- (b) Public parks, playgrounds and recreational areas, more than **four (4) acres** in area.
- (c) Recreational areas or facilities, private, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.

(4) Miscellaneous Uses.

- (a) Colleges and universities, including dormitories, fraternities, sororities, and other accessory buildings necessary for operation, provided that the use is located no closer than **one thousand (1,000) feet** to any other college or university; and,
- (b) Recycling drop-off centers.
- (c) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion systems")** of these regulations are met.

(D) **Minimum Lot Size.** Except as provided by special use permit, all uses and structures in the C-1 Neighborhood Commercial District shall have the minimum lot size set forth below:

(1) Minimum Lot Area.

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** **Six thousand (6,000) square feet**

(2) Minimum Lot Width.

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** **Sixty (60) feet**

(E) **Minimum Setbacks.** The following minimum setback standards shall apply in the C-1 District. For square corner lots, the "road" setback shall be applied to both the front yard where

the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.** The minimum standard for Road setbacks is the lesser of (1) the standard listed below, (2) the average of the setback of developed abutting lots (not applicable for corner lots), or (3) the average of the setback of developed lots nonconforming for road setback when those lots constitute the majority of developed lots in the block. **(Ord. No. 2014-1; 01-07-14)**
 - (a) **State:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred thirty-five (135) feet** from the center of the right-of-way whichever distance is greater.
 - 2. **Non-residential: Twenty-five (25) feet** from the right-of-way or **one hundred (100) feet** from the center of the right-of-way, whichever distance is greater.
 - (b) **County Primary:**
 - 1. **Residential: Seventy-five (75) feet** from the right-of-way or **one hundred fifteen (115) feet** from the center of the right-of-way, whichever distance is greater.
 - 2. **Non-residential: Twenty-five (25) feet** from the right-of-way or **one hundred (100) feet** from the center of the right-of-way, whichever distance is greater.
 - (c) **Local Street: Twenty-five (25) feet** from the right of way.
- (2) **Side.**
 - (a) **Principal structure:** Not less than **ten (10) feet** from the property line. Increase the setback to **twenty (20) feet** when the use is adjacent to a residential district or use.
 - (b) **Accessory structure:** Not less than **five (5) feet** from the property line.
- (3) **Rear.**
 - (a) **Principal structure:** Not less than **ten (10) feet** from the property line. Increase the setback to **twenty (20) feet** when the use is adjacent to a residential district or use.
 - (b) **Accessory structure:** Not less than **five (5) feet** from the property line.
 - (4) **Front.** None.
- (F) **Maximum Lot Coverage.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **Residential:** No more than **sixty-five percent (65%)** of the area of the parcel shall be impervious.
 - (3) **Nonresidential:** No more than **eighty percent (80%)** of the area of the parcel shall be impervious.
- (G) **Maximum Height.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **Other uses:** **Three (3) stories** or **thirty-six (36) feet** whichever is higher.
- (H) **Floor Area Ratio.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **Residential:** 0.6
 - (3) **Nonresidential and mixed use:** 2.0

40-6-10 C-2 GENERAL COMMERCIAL DISTRICT.

(A) **Purpose.** The C-2 General Commercial District is established to provide a location for higher-volume and higher intensity commercial uses than the C-1 District, including establishment involving heavy equipment, and the processing and distribution of goods which provide employment and revenues for the City. Due to the higher volume of these uses, and the automobile and truck traffic they typically generate, it is intended that the C-2 District be located only along major and minor collectors and arterials in order to ensure that the traffic generated by such uses does not adversely impact nearby residential neighborhoods. Recognizing the impacts such uses may have on adjacent residential areas, the development standards for the C-2 District are designed to preserve open space and natural resources, as well as buffer the C-2 District from nearby residential properties and maintain the general appearance of major thoroughfares through the City.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the C-2 District, in accordance with the procedures set forth in **Section 40-5-4 ("Development Permitted as of Right")**:

- (1) **Reserved.**
- (2) **Commercial/Office Uses.**
 - (a) Automated teller machines;
 - (b) Automobile repair;
 - (c) Automobile service stations, provided that:
 - 1. No more than **four (4)** fuel stations and no more than **two (2)** service bays are provided; and
 - 2. Any accessory retail establishment is less than **five thousand (5,000) square feet**.
 - (d) Automobile supply stores, not exceeding **fifty thousand (50,000) square feet** of floor area, including storage space, office space, and any other area on the lot devoted to the use, excluding parking and open space;
 - (e) Car washes provided that no more than **four (4) cars** may be washed at the same time;
 - (f) Childcare centers, provided that the use is licensed by or registered with the State of Illinois.
 - (g) Clinics, and medical and dental offices;
 - (h) Clubs and lodges, not exceeding a floor area greater than **five thousand (5,000) square feet**;
 - (i) Commercial retail establishments, not exceeding **fifty thousand (50,000) square feet** of floor area;
 - (j) Contractors or construction offices, excluding storage yards;
 - (k) Convenience stores;
 - (l) Drive-through service windows, provided that:
 - 1. The principal use is an office, retail establishment, or financial institution located on the same lot; and
 - 2. The amount of stacking space and circulation patterns on the lot meet the requirements set forth in **Section 40-7-8 ("Parking and Loading Requirements")**.
 - (m) Financial institutions;
 - (n) Funeral parlors;
 - (o) Greenhouses, commercial;
 - (p) Home improvement centers, not exceeding **fifty thousand (50,000) square feet** of floor area;
 - (q) Markets, open and outside;
 - (r) Medical rehabilitation centers;
 - (s) Offices;
 - (t) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight**

Accommodations") and provided that rooms are not rented for a period of more than **thirty (30) days**;

- (u) Personal service establishments;
- (v) Restaurants;
- (w) Sale of monuments, provided there is no outdoor storage or display;
- (x) Taverns, not exceeding a floor area of **five thousand (5,000) square feet**, provided they are located no closer than **five hundred (500) feet** from any residential district, religious institution, or school;
- (y) Theaters, except open-air drive-in.
- (z) Gas Station Convenience Stores, provided that, no more than **four (4)** fuel stations are provided, and the accessory retail space is less than **five thousand (5,000) square feet** in gross floor area. Included in that **five thousand (5,000) square feet** is space for restaurant facilities; and
- (aa) Automobile Sales, provided that any accessory uses are within an enclosed structure less than **fifty thousand (50,000) square feet** and excludes automobile body repair.
- (bb) Dance Hall.
- (cc) Drive-in Theater
- (dd) Marina
- (ee) Sexually oriented adult businesses provided that:
 1. No sexually oriented adult business may be located within **seven hundred fifty (750) feet** of any residential dwelling not located in a residential district. Said distance shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the residential dwelling itself.
 2. No sexually oriented adult business may be located within **seven hundred fifty (750) feet** of any residential district. Said distance shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the property line of the residential district.
 3. No sexually oriented adult business may be located within **one thousand (1,000) feet** of any place of religious worship, public or private school, child care home or center, public park, public housing, or any other sexually oriented adult business. Said distances shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the property line of the protected uses identified in this section 3.
 4. Notwithstanding any other provisions of these regulations, the distance restrictions set forth above cannot be varied or modified pursuant to **Section 40-5-5** of these regulations.

(3) **Recreational Uses.**

- (a) Health clubs and fitness centers, not exceeding a floor area of **fifteen thousand (15,000) square feet**.

(4) **Miscellaneous Uses.**

- (a) Accessory structures, dwellings and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
- (b) Community centers;
- (c) Governmental uses, essential and non-essential;
- (d) Museums, civic and cultural centers;
- (e) Non-exempt Public Utility Structures, provided that:
 - 1. No building is located within **twenty-five (25) feet** of a side lot line; and
 - 2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
 - 3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
- (f) Places of worship;
- (g) Schools -- arts or vocational; and
- (h) Signs, as provided in **Section 40-7-6 ("Signs")**.
- (i) Historic Sites.
- (j) Solar Private. (**Ord. No. 2020-07; 11-20-20**)

(C) **Special Uses.** The following uses may be established as special uses in the C-2 District, in accordance with the procedures and standards set forth in **Section 40-5-5 ("Special Use Permits")**:

(1) **Commercial/Office Uses.**

- (a) Adult-Use Cannabis Craft Grower Organization;
- (b) Adult-Use Cannabis Cultivation Organization;
- (c) Adult-Use Cannabis Dispensing Organization;
- (d) Adult-Use Cannabis Infuser Organization;
- (e) Adult-Use Cannabis Processing Organization;
- (f) Adult-Use Cannabis Transporting Organization;
- (g) Animal hospitals, animal clinics, pounds, and commercial kennels;
- (h) Auction houses;
- (i) Automobile service stations, provided that:
 - 1. More than **four (4)** fuel stations and/or more than **two (2)** service bays are provided; and/or
 - 2. Any accessory retail establishment is more than **five thousand (5,000) square feet**.
- (j) Automobile body repair;
- (k) Car washes, provided that more than **four (4) cars** may be washed at the same time;
- (l) Clubs and lodges with a floor area of greater than **five thousand (5,000) square feet**;
- (m) Commercial retail establishments with a floor area of greater than **fifty thousand (50,000) square feet** or greater;
- (n) Contractors or construction offices including storage yards;
- (o) Drive-through service windows, provided that:
 - 1. The principal use is a restaurant located on the same lot; and
 - 2. The amount of stacking space and circulation patterns on the lot meet the requirements set forth in **Section 40-7-8 ("Parking and Loading Requirements")**.
- (p) Home improvement centers, exceeding **fifty thousand (50,000) square feet** of floor area;

- (q) Hospitals;
- (r) Pawn shops;
- (s) Planned developments, nonresidential, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**;
- (t) **Taverns:**
 - 1. Tavern, not exceeding a floor area of **five thousand (5,000) square feet**, if located closer than **five hundred (500) feet** from any residential district, religious institution, or school;
 - 2. Taverns, exceeding a floor area of **five thousand (5,000) square feet**, provided they are located no closer than **five hundred (500) feet** from any residential district, religious institution, or school.
- (u) Tattoo parlors;
- (v) Vehicle mechanical repair;
- (w) Vehicle sales or rental.
- (x) Gas Station Convenience Stores when more than **four (4)** fuel stations are desired or when the accessory retail space, which may include restaurant facilities, is greater than **five thousand (5,000) square feet** in gross floor area.
- (y) Automobile Sales, when any accessory uses are within an enclosed structure greater than **fifty thousand (50,000)**, or the accessory use includes automobile body repair.
- (z) Mobile/Modular Home Sales

(Ord. No. 2020-08; 12-03-20)

(2) **Recreational Uses.**

- (a) Health clubs and fitness centers, exceeding a floor area of **fifteen thousand (15,000) square feet**;
- (b) Public parks and recreational areas.
- (c) Speedways: and
- (d) Zoos.
- (e) Recreational areas or facilities, private, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.

(3) **Miscellaneous Uses.**

- (a) Crematories;
- (b) Recycling drop-off centers.
- (c) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")** of these regulations are met.

(4) **Manufacturing Uses.**

- (a) Mini-storage facilities.

(D) **Minimum Lot Size.** Except as provided by special use permit, all uses and structures in the C-2 General Commercial District shall have the minimum lot size set forth below:

(1) **Minimum Lot Area.**

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** Ten thousand (10,000) square feet

(2) **Minimum Lot Width.**

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** Eighty (80) feet

(E) **Minimum Setbacks.** The following minimum setback standards shall apply in the C-2 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.** The minimum standard for Road setbacks is the lesser of (1) the standard listed below, (2) the average of the setback of developed abutting lots (not applicable for corner lots), or (3) the average of the setback of developed lots nonconforming for road setback when those lots constitute the majority of developed lots in the block. **(Ord. No. 2014-1; 01-07-14)**

The following nonresidential road setbacks shall apply where a parking lot is placed in the road setback. Where a parking lot is located only in the side or rear setback, the road setback may be reduced to the specifications set forth in the C-1 Neighborhood Commercial District.

(a) **State:**

1. **Residential:** n/a
2. **Non-residential:** **Seventy-five (75) feet** from the right-of way or **one hundred sixty (160) feet** from the center of the right-of-way, whichever distance is greater.

(b) **County Primary:**

1. **Residential:** n/a
2. **Non-residential:** **One hundred (100) feet** from the right-of-way or **one hundred forty (140) feet** from the center of the right-of-way, whichever distance is greater.

(c) **Local Street:** **Twenty-five (25) feet** from the right-of-way.

(2) **Side.**

(a) **Principal structure:** Not less than **ten (10) feet** from the property line. Increase the setback to **twenty (20) feet** when the use adjacent to a residential district or use.

(b) **Accessory structure:** Not less than **five (5) feet** from the property line. Increase the setback to **ten (10) feet** when the use is adjacent to a residential district or use.

(3) **Rear.**

(a) **Principal structure:** Not less than **ten (10) feet** from the property line. Increase the setback to **twenty (20) feet** when the use adjacent to a residential district or use.

(b) **Accessory structure:** Not less than **five (5) feet** from the property line. Increase the setback to **ten (10) feet** when the use is adjacent to a residential district or use.

(4) **Front.** None.

(F) **Maximum Lot Coverage.**

(1) **Telecommunications carrier facilities:** n/a

(2) **Other uses:** No more than **eighty percent (80%)** of the area of the parcel shall be impervious.

(G) **Maximum Height.**

(1) **Telecommunications carrier facilities:** n/a

(2) **Other uses:** **Four (4) stories** or **fifty (50) feet** whichever is higher, provided that the applicant receives approval from the local fire official stating that the fire department will be able to provide adequate fire protection for the proposed development.

(H) **Floor Area Ratio.**

(1) **Telecommunications carrier facilities:** n/a

(2) **Other uses:** 1.5.

40-6-11

RESERVED.

40-6-12 I-1 LIGHT INDUSTRIAL DISTRICT.

(A) **Purpose.** The I-1 Light Industrial District is intended to allow industrial and office uses that have minimal adverse impacts. Development in this district is therefore limited to those manufacturing, wholesaling, and office activities which can be operated in a clean and quiet manner, as well as certain commercial and recreational activities which are needed to serve the occupants of the district and the residents of adjoining residential districts. Whenever possible, this district should be separated from residential districts by natural or structural boundaries such as drainage channels, sharp breaks in topography, strips of vegetation, traffic arteries, and similar features.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the I-1 District, in accordance with the procedures set forth in **Section 40-5-2 ("Development Permitted as of Right")**:

- (1) **Reserved.**
- (2) **Commercial/Office Uses.**
 - (a) Agriculturally related businesses;
 - (b) Auction houses;
 - (c) Automobile body repair;
 - (d) Automobile repair;
 - (e) Automobile service station, provided that, no more than **four (4)** fuel stations are provided;
 - (f) Automobile supply stores;
 - (g) Car washes;
 - (h) Contractors or construction offices, including storage yards;
 - (i) Greenhouses, commercial;
 - (j) Home improvement centers;
 - (k) Hospitals;
 - (l) Landscape contractors;
 - (m) Offices;
 - (n) Overnight accommodations, provided that they meet the requirements set forth in **Section 40-7-9 ("Overnight Accommodations")**;
 - (o) Sale of monuments;
 - (p) Vehicle body repair;
 - (q) Vehicle mechanical repair;
 - (r) Vehicle sales and rental;
 - (s) Gas Station Convenience Stores, provided that, no more than **four (4)** fuel stations are provided, and the accessory retail space is less than **five thousand (5,000) square feet** in gross floor area. Included in that **five thousand (5,000) square feet** is space for restaurant facilities and;
 - (t) Automobile Sales provided any accessory uses are within an enclosed structure less than **fifty thousand (50,000) square feet.**
 - (u) Mobile/Modular Home Sales
 - (v) Marina
 - (w) Sexually oriented adult businesses, provided that:
 - 1. No sexually oriented adult business may be located within **seven hundred fifty (750) feet** of any residential dwelling not located in a residential district. Said distance shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the residential dwelling itself.
 - 2. No sexually oriented adult business may be located within **seven hundred fifty (750) feet** of any residential district. Said distance shall be measured by

following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the property line of the residential district.

3. No sexually oriented adult business may be located within **one thousand (1,000) feet** of any place of religious worship, public or private school, childcare home or center, public park, public housing, or any other sexually oriented adult business. Said distances shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the property line of the protected uses identified in this section (3).
4. Notwithstanding any other provisions of these regulations, the distance restrictions set forth above cannot be varied or modified pursuant to **Section 40-5-5** of these regulations.

(3) **Manufacturing Uses.**

- (a) Bus or truck storage yards or terminals and transfer terminals, provided they are landscaped in accordance with **Section 40-7-7(F)**;
- (b) Industry, light,
- (c) Warehousing, mini storage; and
- (d) Wholesale establishments.
- (e) Multi-Modal Center

(4) **Miscellaneous Uses.**

- (a) Accessory structures and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
- (b) Crematories;
- (c) Governmental uses, essential;
- (d) Non-exempt Public Utility Structures, provided that:
 1. No building is located within **twenty-five (25) feet** of a side lot line;
 2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
 3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
- (e) Recycling drop-off centers;
- (f) Schools, arts or vocational; and
- (g) Signs, as provided in **Section 40-7-6 ("Signs")**.
- (h) Airports, public, provided that the location and layout plan have been approved by the Department of Aeronautics of Illinois or the Federal Aviation Administration (FAA).
- (i) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.
- (j) Solar Private. (**Ord. No. 2020-07; 11-20-20**)

(C)

Special Uses.

The following uses may be established as special uses in the I-1 District, in accordance with the procedures set forth in **Section 40-5-3 ("Special Use Permits")**:

(1) **Residential Uses.**

- (a) Caretaker facilities/dwellings, provided:

1. The facility or dwelling meets the standards for that particular type of use;
2. The caretaker facility or dwelling is only occupied by a person(s) responsible for protecting, maintaining, and caring for an industrial use allowed in this District;

(2) **Commercial/Office Uses.**

- (a) Adult-Use Cannabis Craft Grower Organization;
- (b) Adult-Use Cannabis Cultivation Organization;
- (c) Adult-Use Cannabis Dispensing Organization;
- (d) Adult-Use Cannabis Infuser Organization;
- (e) Adult-Use Cannabis Processing Organization;
- (f) Adult-Use Cannabis Transporting Organization;
- (g) Airports, private, landing fields, and heliports, provided that the location and layout plan have been approved by the Department of Aeronautics of Illinois or the Federal Aviation Administration (FAA), and if within its jurisdiction, the Greater Peoria Airport Authority;
- (h) Animal hospitals, animal clinics, and commercial kennels, provided:
 1. Lot size shall be **two (2)** or more acres;
 2. No treatment rooms or pens for large animals and no kennel shall be located closer than **two hundred (200) feet** from any off-site residential building or **one hundred (100) feet** from any property line, unless maintained within a completely enclosed building; and
 3. No objectionable odors are noticeable at or beyond the lot line.
- (i) Automated teller machines;
- (j) Automobile service stations, when more than **four (4)** fuel stations are desired;
- (k) Childcare centers, provided that the use is licensed by or registered with the State of Illinois.
- (l) Clinics, and medical and dental offices;
- (m) Commercial retail establishments, provided they are accessory to a wholesale establishment;
- (n) Funeral parlors;
- (o) Health clubs and fitness centers;
- (p) Medical rehabilitation centers;
- (q) Personal service establishments;
- (r) Planned developments, nonresidential, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**;
- (s) Recreational areas and facilities, private;
- (t) Tattoo parlors;
- (u) Taverns;
- (v) Vehicle repair establishments with outdoor storage, provided they are located at least **one thousand (1,000) feet** from a residential use or district.
- (w) Gas Station Convenience Stores when more than **four (4)** fuel stations are desired or when the accessory retail space, which may include restaurant facilities, is greater than **five thousand (5,000) square feet** in gross floor area and;
- (x) Automobile Sales, when any accessory uses are within an enclosed structure greater than **fifty thousand (50,000) square feet**.

- (y) Commercial Wind Energy Conversion Systems, provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.

(Ord. No. 2020-08; 12-03-20)

(3) **Manufacturing Uses.**

- (a) Warehousing and distribution establishments.

(4) **Recreational Uses.**

- (a) Public parks and recreational areas;
- (b) Speedways; and
- (c) Zoos.

(5) **Miscellaneous Uses.**

- (a) Governmental uses, non-essential;
- (b) Halfway houses; and
- (c) Stadia, auditoria, and arenas.
- (d) Solar Energy Generation Facility. **(Ord. No. 2020-07; 11-20-20)**

(D) **Minimum District Size.** The minimum size of any industrial zoned district shall be **ten (10) acres.**

(E) **Minimum Lot Size.** Except as provided by special use permit, all uses and structures in the I-1 Light Industrial District shall have the minimum lot size set forth below:

(1) **Minimum Lot Area.**

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** **Twenty thousand (20,000) square feet**

(2) **Minimum Lot Width.**

- (a) **Telecommunications carrier facilities:** n/a
- (b) **Other uses:** **One hundred (100) feet**

(F) **Minimum Setbacks.** The following minimum setback standards shall apply in the I-1 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

(1) **Road.**

- (a) **State:** **Fifty (50) feet** from the right-of-way.
- (b) **County Primary:** **Forty (40) feet** from the right-of-way.
- (c) **Local Street:** **Thirty (30) feet** from the right-of-way.

(2) **Side.**

- (a) **Principal structures:** Not less than **twenty (20) feet** from the property line. Increase the setback to **forty (40) feet** when the use is adjacent to a residential district or use.
- (b) **Accessory structure:** Not less than **fifteen (15) feet** from the property line.

(3) **Rear.**

- (a) **Principal structures:** Not less than **twenty (20) feet** from the property line. Increase the setback to **forty (40) feet** when the use is adjacent to a residential district or use.
- (b) **Accessory structure:** Not less than **fifteen (15) feet** from the property line.

(4) **Front.** None.

(G) **Maximum Lot Coverage.**

- (1) **Telecommunications carrier facilities:** n/a
- (2) **Other uses:** No more than **seventy-five percent (75%)** of the area of the parcel shall be impervious.

(H) **Maximum Height.**

- (1) **Telecommunications carrier facilities:** n/a

- (2) **Other uses:** Three (3) stories or thirty-six (36) feet whichever is higher.
- (I) **Floor Area Ratio.**
 - (1) **Telecommunications carrier facilities:** n/a
 - (2) **Other uses:** 1.5.
- (J) **Required Conditions.** The following conditions shall be met by all permitted and special uses in the I-1 District. These conditions do not apply to telecommunications carrier facilities.
 - (1) All production, fabrication, servicing, assembling, testing, repair and processing shall be conducted wholly within an enclosed building or behind a uniformly painted solid fence of at least **six (6) feet** in height, as provided for in **Section 40-7-5 ("Fences")**, or behind screening as required in **Section 40-7-8 ("Landscaping and Bufferyards")**. However, accessory uses, equipment and structures (including but not limited to: storage, rail car loading, and uses related to experimentation, testing, inspection, and development of goods, materials, or products and equipment and structures incidental thereto) may be unenclosed, provided that the use is not adjacent to a residential district.
 - (2) No storage, cleaning of equipment or accessory buildings may be located in front of the building line established by the principal building or in any required setback or buffer area.
 - (3) Where a railroad right-of-way separates the district from a residential district, buildings and storage may be located within **twenty (20) feet** from the railroad right-of-way, provided that suitable landscaping or fencing is provided in accordance with **Section 40-7-7 ("Landscaping and Bufferyards")** or **40-7-5 ("Fences")** of these regulations. No setback shall be required from a rail spur on privately owned ground.

40-6-13

I-2 HEAVY INDUSTRIAL DISTRICT.

(A) **Purpose.** The purpose of the I-2 Heavy Industrial District is to create and protect areas for heavy industrial uses, manufacturing, assembling, processing, servicing and storing of parts and products, and distribution of products at wholesale. To further protect adjacent residential districts, the I-2 District should be surrounded by natural or structural boundaries such as drainage channels, sharp breaks in topography, and strips of vegetation, traffic arteries, and similar features.

(B) **Permitted Uses.** The following uses may be established as permitted uses in the I-2 District, in accordance with the procedures set forth in **Section 40-5-2 ("Development Permitted as of Right")**:

- (1) **Reserved.**
- (2) **Commercial/Office Uses.**
 - (a) Automobile body repair;
 - (b) Automobile repair;
 - (c) Automobile service station provided that auto body repair or mechanical repairs are conducted as part of the use;
 - (d) Contractors or construction offices, including storage yards;
 - (e) Greenhouses, commercial;
 - (f) Landscape contractors;
 - (g) Sale of monuments;
 - (h) Vehicle body repair; and
 - (i) Vehicle mechanical repair.
 - (j) Mobile/Modular Home Sales
 - (k) Marina
 - (l) Sexually oriented adult businesses provided that:
 - 1. No sexually oriented adult business may be located within **seven hundred fifty (750) feet** of any residential dwelling not located in a residential district.

Said distance shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the residential dwelling itself.

2. No sexually oriented adult business may be located within **seven hundred fifty (750) feet** of any residential district. Said distance shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the property line of the residential district.
3. No sexually oriented adult business may be located within **one thousand (1,000) feet** of any place of religious worship, public or private school, child care home or center, public park, public housing, or any other sexually oriented adult business. Said distances shall be measured by following a straight line, without regard to intervening structures, from the property line of the sexually oriented adult business to the property line of the protected uses identified herein in this section 3.
4. Notwithstanding any other provisions of these regulations, the distance restrictions set forth above cannot be varied or modified pursuant to **Section 40-5-7** of these regulations.

(3) **Manufacturing Uses.**

- (a) Bus or truck storage yards or terminals and transfer terminals, provided that any parking lots are landscaped in accordance with **Section 40-7-7(F)**.
- (b) Industry, heavy;
- (c) Industry, light;
- (d) Multi-Modal Center; and
- (e) Wholesale establishments.

(4) **Miscellaneous Uses.**

- (a) Accessory structures and uses, as provided in **Section 40-7-4 ("Accessory Structures and Uses")**;
- (b) Governmental uses, essential;
- (c) Non-exempt Public Utility Structures provided that:
 1. No building is located within **twenty-five (25) feet** of a side lot line;
 2. The facility is constructed and operated to comply with all applicable local, state, and federal regulations; and
 3. No above-ground structure for the treatment or disposal of wastewater and no surface disposal of wastewater is located within **three hundred (300) feet** of any stream or other body of water or any existing or proposed dwelling.
- (d) Recycling drop-off centers; and
- (e) Signs, as provided in **Section 40-7-6 ("Signs")**.
- (f) Airports, public, provided that the location and layout plan have been approved by the Department of Aeronautics of Illinois or the Federal Aviation Administration (FAA).
- (g) Small Wind Energy Conversion Systems (non-commercial), provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.

(C) (h) Solar Private. **(Ord. No. 2020-07; 11-20-20)**
Special Uses. The following uses may be established as special uses in the I-2 District, in accordance with the procedures set forth in **Section 40-5-5 ("Special Use Permits")**:

(1) **Residential Uses.**

- (a) Caretaker facilities/dwellings, provided:
 1. The facility or dwelling meets the standards for that particular type of use;
 2. The caretaker facility or dwelling is only occupied by a person(s) responsible for protecting, maintaining, and caring for an industrial use allowed in this District;

(2) **Commercial/Office Uses.**

- (a) Adult-Use Cannabis Craft-Grower Organization;
- (b) Adult-Use Cannabis Cultivation Organization;
- (c) Adult-Use Cannabis Dispensing Organization;
- (d) Adult-Use Cannabis Infuser Organization;
- (e) Adult-Use Cannabis Processing Organization;
- (f) Adult-Use Cannabis Transporting Organization;
- (g) Agriculturally related businesses;
- (h) Airports, private, landing fields, and heliports, provided that the location and layout plan have been approved by the Department of Aeronautics of Illinois or the Federal Aviation Administration (FAA), and if within its jurisdiction, the Greater Peoria Airport Authority;
- (i) Automobile service stations;
- (j) Commercial retail establishments;
- (k) Home improvement centers;
- (l) Planned developments, nonresidential, provided that they meet the requirements set forth in **Section 40-6-15 ("Planned Developments")**.
- (m) Tattoo parlors;
- (n) Towing services; and
- (o) Taverns.
- (p) Commercial Wind Energy conversion Systems, provided that the conditions in **Section 40-4-2 ("Wind Energy Conversion Systems")**, of these regulations are met.

(Ord. No. 2020-08; 12-03-20)

(3) **Manufacturing Uses.**

- (a) Junkyards; and
- (b) Warehousing, mini-storage.

(4) **Recreational Uses.**

- (a) Public parks and recreation areas;
- (b) Speedways; and
- (c) Zoos.

(5) **Miscellaneous Uses.**

- (a) Governmental uses, non-essential;
- (b) Halfway houses;
- (c) Mineral extraction facilities, as provided for in **Section 40-7-13 ("Mineral Extraction Facilities")**;
- (d) Schools, arts or vocational; and
- (e) Stadia, auditoria, and arenas.
- (f) Solar Energy Generation Facility. **(Ord. No. 2020-07; 11-20-20)**

(D) **Minimum District Size.** The minimum size of any industrial zoned district shall be **ten (10) acres.**

(E) **Minimum Lot Size.** Except as provided by special use permit, all uses and structures in the I-2 Heavy Industrial District shall have the minimum lot size set forth below:

- (1) **Minimum Lot Area.**
 - (a) **Telecommunications carrier facilities:** n/a
 - (b) **Other uses: Twenty thousand (20,000) square feet**
- (2) **Minimum Lot Width.**
 - (a) **Telecommunications carrier facilities:** n/a
 - (b) **Other uses: One hundred (100) feet**

(F) **Minimum Setbacks.** The following minimum setback standards shall apply in the I-2 District. For square corner lots, the "road" setback shall be applied to both the front yard where the main door is located and the side yard facing the right-of-way; the other yards shall be considered to be the "side" and "rear" setbacks.

- (1) **Road.**
 - (a) **State: Fifty (50) feet** from the right-of-way.
 - (b) **County Primary: Forty (40) feet** from the right-of-way.
 - (c) **Local Street: Thirty (30) feet** from the right-of-way.
- (2) **Side.**
 - (a) **Principal structures:** Not less than **twenty (20) feet** from the property line. Increase the setback to **forty (40) feet** when the use is adjacent to a residential district or use.
 - (b) **Accessory structure:** Not less than **fifteen (15) feet** from the property line.
- (3) **Rear.**
 - (a) **Principal structures:** Not less than **twenty (20) feet** from the property line. Increase the setback to **forty (40) feet** when the use is adjacent to a residential district or use.
 - (b) **Accessory structure:** Not less than **fifteen (15) feet** from the property line.
- (4) **Front.** None.

(G) **Maximum Lot Coverage.**

- (1) **Telecommunications carrier facilities:** n/a
- (2) **Other uses:** No more than **seventy-five percent (75%)** of the area of the parcel shall be impervious.

(H) **Maximum Height.**

- (1) **Telecommunications carrier facilities:** n/a
- (2) **Other uses: Three (3) stories or thirty-six (36) feet** whichever is higher.

(I) **Floor Area Ratio.**

- (1) **Telecommunications carrier facilities:** n/a
- (2) **Other uses:** 1.5.

(J) **Required Conditions.** The following conditions shall be met by all permitted and special uses in the I-2 District. These conditions do not apply to telecommunications carrier facilities.

- (1) All production, fabrication, servicing, assembling, testing, repair and processing shall be conducted wholly within an enclosed building or behind a uniformly painted solid fence of at least **six (6) feet** in height, as provided for in **Section 40-7-5 ("Fences")**, or behind screening as required in **Section 40-7-8 ("Landscaping and Bufferyards")**. However, accessory uses, equipment and structures (including but not limited to storage, rail car loading, and uses related to experimentation, testing, inspection, and development of goods, materials or products and equipment and structures incidental thereto) may be unenclosed, provided that the use is not adjacent to a residential district.
- (2) No storage, cleaning of equipment, or accessory buildings may be located in front of the building line established by the principal building or in any required setback or buffer area.

- (3) Where a railroad right-of-way separates the district from a residential district, buildings and storage may be located within **twenty (20) feet** from the railroad right-of-way, provided that suitable landscaping or fencing is provided in accordance with **Section 40-7-7 ("Landscaping and Bufferyards")** or **40-7-5 ("Fences")** of these regulations. No setback shall be required from a rail spur on privately owned ground.

40-6-14 RESERVED.

40-6-15 PLANNED DEVELOPMENTS.

(A) **Purpose.** The planned development process is intended to allow land in the City to be developed through an overall unified approach, rather than a "traditional" lot-by-lot treatment afforded by the district requirements set forth in these regulations. The purpose of this Section is to provide maximum design freedom in order to permit the developer to more fully utilize the physical characteristics of the site through techniques that include reduction of lot sizes; absence of side setback; and increased densities and height allowances. In addition, these provisions are intended to diversify housing types and encourage innovative and, in some cases, "mixed use" development of land. Increased densities are permitted, so long as they can be substantiated on the basis of superior design (i.e. increased open space and use of topography and natural features), without compromising the intent and integrity of the underlying district.

(B) **General.** The following standards shall apply to both residential and nonresidential planned developments, regardless of the district in which they are located.

- (1) **Uses.** The uses allowed in each planned development shall be those authorized as permitted or special uses in the underlying zoning district in which the property is located.
- (2) **Setbacks.**
 - (a) **Side.**
 - 1. For non-shared wall construction, the minimum side setback shall be the greater of **ten percent (10%)** of the lot width or **five (5) feet** from the lot line.
 - 2. For shared wall construction, side setbacks may be zero.
 - (b) **All Other Setbacks.** All other setbacks shall be that specified in the underlying district.
- (3) **Common Open Space.** At least **five percent (5%)** of the net area of the development shall be provided as common open space, above and beyond the requirements provided in the underlying district.
- (4) **Preservation of Natural Features.** Buildings shall be located to protect and preserve significant site features, such as hills, bluffs, valleys, stands of trees, ponds, prairies, or scenic vistas.
- (5) **Street Configuration.** When required pursuant to Ordinance No. _____ of the City, the City's subdivision code ("Subdivision Code"), streets shall be designed to protect natural soils and contours, to maintain appropriate speeds, and to discourage the use of residential streets by through traffic.\
- (6) **Approval by Peoria City/County Health Department.** All development with private water and sewer shall be approved by the Peoria City/County Health Department.
- (7) **Fire Wall Construction.** Shared wall construction shall meet all fire-resistive requirements of the appropriate Fire Protection District.

(C) **Residential Planned Development.**

- (1) **Density.** Densities for residential planned developments shall vary by district as follows:

- (a) For A-2 Districts, no more than **one (1) dwelling unit** for every **one (1) acre** of land shall be permitted.
1. **All Dwellings.** The following criteria shall apply to all new single-family dwellings built in the A-2 District, regardless of whether they are allowed in the district as permitted or special uses:
 - a. Lots shall be platted on soils that are least capable of supporting continued agricultural production in order to minimize the conversion of important agricultural land. This evaluation shall be based on:
 - i. Soil productivity, as determined by the County's Land Evaluation Site Assessment System (LESA); and
 - ii. The size or shape of land, if it can be demonstrated that the parcel does not permit the efficient and economic use of farm machinery.
 - b. Where **three (3)** or more lots are proposed for development, lots shall be clustered or grouped together, so as to:
 - i. Maximize separation between existing agricultural uses and new residences in order to reduce concerns over odor, noise, chemical drift, and other farm operations;
 - ii. Maximize efficiency of providing basic public services, such as police and fire protection, school bus routes, plowing, and road maintenance; and
 - iii. Minimize the number of curb cuts required to serve single-family dwellings on abutting collector, local, city, and/or state roads.
 2. **Subdivisions and Land Splits.** The subdivision of each **twenty-five (25)** contiguously owned acres for the purpose of constructing single family dwellings shall be allowed to occur only **one (1) time**.
 - a. Single-family residential dwellings shall be permitted on lots or parcels of land for which a deed has been recorded in the Office of the Peoria County Recorder of Deeds upon or prior to the effective date of these regulations, or a lot or parcel of land that would have been a lot of record if the document conveying the lot had been recorded on the date of its execution, provided said lots comply with standards established for the number of allowable lots in **Section 40-6-4(D)(1)(b) ("A-2**

- (2) **Lot Size.** The minimum lot sizes of the underlying district shall be applied to nonresidential planned developments.
- (3) **Mixed Use Developments:** In the C-1 District, residential units may also be integrated into nonresidential planned developments, provided that:
 - (a) The residential components comprise only **thirty percent (30%)** percent of the square footage of the planned development; and
 - (b) No lot containing a sole residential use is less than **eight thousand (8,000) square feet**; and
 - (c) All units are either townhouse or multi-family; or
 - (d) Residential uses are not located on either the street level of a building that also contains nonresidential uses or on the same floor as nonresidential uses.

ARTICLE VII – REGULATIONS OF GENERAL APPLICABILITY

40-7-1

BULK REGULATIONS.

(A)

General.

- (1) All development, except for telecommunications carrier facilities and except as provided by special use, must conform to the minimum bulk regulations as set out in this Section.
- (2) No building, structure, or land located within the City's zoning jurisdiction shall be used or occupied, and no building or structure shall be erected, moved, reconstructed, extended, enlarged, or altered unless in accordance with the minimum lot area, lot width, setback, and open space requirements as required by these regulations or as permitted by **Article VIII, Nonconformities.**
- (3) No setbacks existing on the effective date of these regulations shall subsequently be reduced below, or further reduced below if already less than the minimum setback requirements as required by these regulations, for equivalent new construction.
- (4) No lot shall hereafter be divided into **two (2)** or more lots unless all lots resulting from such division conform with all applicable minimum lot size requirements of the zoning district in which such lots are located or as otherwise provided by these regulations.
- (5) When **two (2)** or more contiguous developed and/or vacant lots, each of which lacks adequate area and dimension to comply with minimum lot size requirements of the district in which it is located, are held in common ownership, the lots shall be used as **one (1) lot**, except when doing so results in a violation of these regulations.
- (6) Any lot that is not held in common ownership with a contiguous lot which was of record at the time of the adoption of these regulations, and which does not meet the requirements for minimum lot width and area as required by these regulations, may still be utilized for a use permitted under the zoning district in which the lot is located, provided that the applicable setbacks and other provisions of these regulations are met.

(B)

Lot Coverage.

(1) **Location of Required Open Space.**

- (a) All setbacks, and other open spaces allocated to a building(s), shall be located on the same lot as such building(s).
- (b) No required setbacks, other open space, or minimum lot area allocated to a building shall be used to satisfy the setbacks or other open space or minimum lot area requirements for any other building.

(2) **Uses and Structures Prohibited in Required Setbacks.**

- (a) No principal building or structure shall be located within any setback required by these regulations.
- (b) No outdoor storage of goods and materials or refuse container shall be located within any required road setback, except for the temporary placement of refuse containers for curbside pick-up in residential districts.

(3) **Maintenance of Setbacks and Other Open Spaces.** The maintenance of setbacks and other open spaces and minimum lot areas set forth on **Table 7-1** shall be a continuing obligation of the owner(s) of the property.

(C)

Number of Buildings Per Lot. Except for communication support structures which are allowed as a secondary principal use on a property, no more than **one (1) principal building**

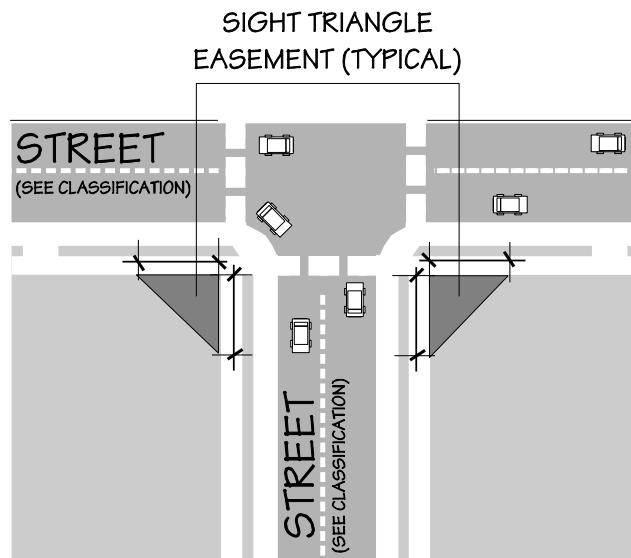
shall be located on a lot, except as approved as a special use or temporary use in accordance with these regulations.

(D) **Height Limitations.** Except as otherwise provided in this subsection and listed below, height limitations for all structures are listed in each district in **Sections 40-6-3 through 40-6-13.**

- (1) The height limitations established for each district shall not apply to public utility poles and lines, skylights, fire towers, spires, cooling towers, parapet walls, and roof structures for elevators, stairways, tanks, heating, ventilation, and air-conditioning equipment or similar equipment for the operation and maintenance of a building.
- (2) Unless located in or adjacent to a residential district, the height limitation shall not apply to steeples, chimneys, and water tanks.
- (3) Structures exempted from the maximum height provisions by subsections (1) and (2) above may not exceed a height of **fifteen (15) feet** above the average roof line of the building to which they are affixed unless permitted by a special use permit.

(E) **Clear Sight Triangles at Street Intersections.**

- (1) The restrictions set out in this Subsection shall apply to the following triangles of land abutting street intersections:
 - (a) **State Highways and County Primary Streets:** The triangle bounded on **two (2) sides** by the intersecting right-of-way lines, measured **fifty (50) feet** in each direction from their point of intersection, and on the third side by the diagonal line connecting the ends of the **fifty (50) foot** sides; and
 - (b) **Local Streets:** The triangle bounded on **two (2) sides** by the intersecting right-of-way lines, measured **fifteen (15) feet** in each direction from their point of intersection, and on the third side by the diagonal line connecting the ends of the **fifteen (15) foot** sides.



- (2) Within the triangles identified in Subsection (1) above, and except as provided in Subsection (3) below, no structures, sign, plant, shrub, tree, berm, fence, wall or other object of any kind shall be installed, constructed, set out or maintained so as to obstruct cross-visibility at a level between **thirty (30) and seventy-two (72) inches** above the height of the curb.

- (3) The restrictions of this Subsection shall not apply to the following:
 - (a) Existing natural grades which, by reason of natural topography, rise **thirty (30)** or more inches above the level of the center of the adjacent intersection;
 - (b) Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the area between **thirty (30)** and **seventy-two (72) inches** above the level of the center of the adjacent intersection; and
 - (c) Fire hydrants, public utility poles, telecommunications carrier facilities, street markers, and traffic control devices.

(F) **Obstruction of Public Right-of-Way.** Except as otherwise permitted by these regulations, no structure, fence, landscaping, driveway, parking lot, newspaper vending machine, or mailbox shall be permitted which obstructs or otherwise interferes with public use of a street right-of-way or other public easement.

40-7-2 HOME OCCUPATIONS.

(A) **Purpose.** The purpose of these regulations is to control the impact that home occupations may have on neighborhood character and on the use and enjoyment of adjacent properties. This Section contains standards that control the three classifications of home occupations ("non-impact," "minor," and "major"), recognizing that their off-site effects will vary, depending on whether the impact is negligible, low or moderate.

(B) **General.** Home occupations may be permitted in all zoning districts, accessory to any single family or multi-family dwelling unit, provided that the following requirements are met:

- (1) The use may be located in either a dwelling or an accessory structure, except as provided below.
- (2) The home occupation must be incidental to and secondary to the use of the dwelling for dwelling purposes.
- (3) The use must be conducted entirely within the dwelling or the accessory structure by members of the family residing on the premises. A home occupation that is classified as "major" may additionally employ no more than **one (1) person** who is not a resident of the dwelling unit.
- (4) The use shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling unit or accessory structure.
- (5) Operation of the use shall not be noticeable from any existing dwelling on an adjacent lot (including but not limited to lights or other displays visible from the exterior of the structure) and shall not change the essential residential character of the principal use.
- (6) As provided in **Section 40-7-6 ("Signs")**, not more than **one (1)** non-illuminated, non-projecting sign measuring **two (2) square feet** per face may be displayed on the dwelling in which the home occupation is being conducted.
- (7) The home occupation shall not be open to the public between the hours of **7:00 pm** and **9:00 am**.
- (8) No home occupation may generate more automobiles daily trips by customers, delivery persons, or employees in greater volumes than would normally be expected for the zoning district in which it is located.
- (9) Deliveries from commercial suppliers, not including mail or package carriers such as Federal Express and UPS, may not be made more than twice each week and the deliveries shall not restrict traffic circulation in the immediate vicinity.
- (10) The following occupations are strictly prohibited as a home occupation:
 - (a) Automobile body repair.
 - (b) Automobile repair.

(C) **Non-Impact Home Occupations.** "Non-impact" home occupations shall be permitted in all zoning districts which allow residential uses. Examples of non-impact home occupations include but are not limited to on-site personal services and office uses. Non-impact home occupations shall be permitted by the Zoning Administrator by district and a home occupation permit shall be issued by the Zoning Administrator in accordance with the provisions of **Section 40-5-2 ("Development Permitted as of Right")**. Variations from these standards shall be permitted as special uses and a special use permit shall be issued by the City Council in accordance with the provisions of **Section 40-5-3 ("Special Use Permits")**. **Table 7-2**, which follows, illustrates the standards for non-impact home occupations enumerated below. In addition to the criteria established in Subsection (B), above, non-impact home occupations shall meet the following: **(Ord. No. 2015-17; 11-17-15)**

- (1) The use shall occupy no more than **twenty-five percent (25%)** of the habitable floor area of one floor of the dwelling unit.
- (2) No mechanical equipment shall be used in the home occupation, other than that normally used in household, domestic, or general office use, or for hobby purposes.
- (3) No stock in trade shall be displayed or maintained on the premises and retail sales on the premises shall be prohibited. Any goods produced in the home occupation shall be offered for sale only off-site. An office may only be used for business purposes in connection with the home occupation.
- (4) Visitors, customers, or deliveries shall not exceed that normally and reasonably occurring for a residence. Not more than **one (1)** business visitor an hour may be permitted on an appointment-only basis. In no event may automobile trips exceed **five (5)** per day for the home occupation.
- (5) No off-street parking or off-street loading shall be required beyond normal dwelling needs.
- (6) No vehicle that exceeds a gross vehicle weight of **eight thousand (8,000) pounds** may be parked on the site of a home occupation, regardless of whether that vehicle is used for deliveries or other commercial purposes associated with the home occupation.
- (7) There shall be no outdoor storage or display of automobiles, equipment, materials, inventory, or supplies used in the home occupation. In addition, no heavy equipment, including excavation, towing, or construction equipment, may be located or stored indoors on the site of the home occupation. Indoor storage shall be limited to the drop-off, pick-up, and/or collection of goods associated with the home occupation.

(D) **Minor Home Occupations.** Minor home occupations shall be permitted in all zoning districts which allow residential uses. Examples of minor home occupations include, but are not limited to, personal services and office uses. Minor home occupations shall be permitted by the Zoning Administrator by district and a home occupation permit shall be issued by the Zoning Administrator in accordance with the provisions of **Section 40-5-2 ("Development Permitted as of Right")**. Variations from these standards shall be permitted as special uses and a special use permit shall be issued by the City Council in accordance with the provisions of **Section 40-5-3 ("Special Use Permits")**. **Table 7-2**, which follows, illustrates the standards for minor home occupations enumerated below. In addition to the criteria established in Subsection (B), above, minor home occupations shall meet the following: **(Ord. No. 2015-17; 11-17-15)**

- (1) The use shall occupy no more than **twenty-five percent (25%)** of the habitable floor area of one floor of the dwelling unit. The floor area allowance may be distributed between the dwelling unit and an accessory structure in any combination.
- (2) No mechanical equipment shall be used in the home occupation, other than that normally used in household, domestic, or general office use, or for hobby purposes.

- (3) No stock in trade shall be displayed or maintained on the premises and retail sales on the premises shall be restricted to the special order of goods that are not produced on-site. Any goods produced in the home occupation shall be offered for sale only off-site. An office may only be used for business purposes and may not be used in connection with the retail sale of goods or services rendered on-site.
- (4) Visitors, customers, or deliveries shall not exceed that normally and reasonably occurring for a residence. Not more than **two (2)** business visitors an hour may be permitted on an appointment-only basis. In no event may automobile trips exceed **twenty (20)** per day for the home occupation.
- (5) No off-street parking or off-street loading shall be required beyond normal dwelling needs.
- (6) No vehicle that exceeds a gross vehicle weight of **eight thousand (8,000) pounds** may be parked on the site of a home occupation, regardless of whether that vehicle is used for deliveries or other commercial purposes associated with the home occupation.
- (7) There shall be no outdoor storage or display of automobiles, equipment, materials, inventory, or supplies used in the home occupation. In addition, no heavy equipment, including excavation, towing, or construction equipment, may be located or stored indoors on the site of the home occupation. Indoor storage shall be limited to the drop-off, pick-up, and/or collection of goods associated with the home occupation.

(E) **Major Home Occupations.** Major home occupations shall only be permitted as specified in the individual districts. Examples of major home occupations include but are not limited to a wide range of services and office uses. Major home occupations shall be permitted by the Zoning Administrator by district and a home occupation permit shall be issued by the Zoning Administrator in accordance with the provisions of **Section 40-5-2 ("Development Permitted as of Right")**. Variations from these standards shall be permitted as special uses and a special use permit shall be issued by the City Council in accordance with the provisions of **Section 40-5-3 ("Special Use Permits")**. **Table 7-2**, which follows, illustrates the standards for major home occupations enumerated below. In addition to the criteria established in Subsection (B), above, major home occupations shall meet the following: **(Ord. No. 2015-17; 11-17-15)**

- (1) The use shall occupy no more than **twenty-five percent (25%)** of the habitable floor area of one floor of the dwelling unit and no more than **one thousand (1,000) square feet** of an accessory structure which may be used for storage purposes only.
- (2) Mechanical equipment may be used in the home occupation which is common to the type of business, and which is beyond that which is normally used in household, domestic, or general office use, or for hobby purposes.
- (3) Stock in trade may be displayed or maintained on the premises. Retail sales of goods produced or fabricated in the home occupation may be offered both on- and off-site. However, goods produced off-site may only be sold on-site if they are accessory to a primary good or service produced on-site, such as mulch or potting soil. An office may be used for business purposes that are commonly accessory to the home occupation, such as excavation, fertilizer spreading, custom farm services.
- (4) Additional parking needed to accommodate the clients or customers of the home occupation shall be met by off-street parking, according to the provisions set forth in **Section 40-7-8 ("Parking and Loading Requirements")**.
- (5) Landscaping shall be required to screen off-street parking areas, loading zones, outdoor storage areas, and outdoor work areas from the view of

adjacent landowners, according to the provisions set forth in **Section 40-7-7 ("Landscaping and Bufferyards")**.

- (6) Required setbacks may be increased to minimize potential adverse impacts of the use on adjacent properties.
- (7) Visitors, customers, or deliveries shall be permitted. Business visitors shall be permitted on a scheduled and unscheduled basis. However, in no event may automobile trips exceed **thirty (30)** per day for the home occupation.
- (8) The home occupation may involve the use of commercial vehicles that do not exceed a gross vehicle weight of **eight thousand (8,000) pounds** for delivery of materials to and/or from the premises, however, such deliveries shall not restrict traffic circulation in the immediate vicinity.
- (9) The home occupation may involve the use or indoor storage of tractor trailers, semi-trucks, and heavy equipment such as construction equipment used in the home occupation and may involve warehousing or distribution. Such equipment may only be stored in the dedicated accessory structure. Only **one (1) vehicle** and only **two (2) trailers** or pieces of equipment may be permitted as part of the home occupation.
- (10) Equipment shall not exceed the posted weight limits for adjacent roads.

**Table 7-2
CLASSIFICATIONS FOR HOME OCCUPATIONS**

	Standards	Non-Impact	Minor	Major
Permitted Activities	Production	only of goods for sale off-site	only of goods for sale off-site restricted personal & office support services	of goods for sale off-site and on-site
	Sales	No on-site sales	only of goods not produced on-site by special order	of goods produced off-site and on-site. Goods produced off-site can only be sold if they are accessory to primary goods or service produced on-site
	Services	restricted personal & office support services	student services	wide range of on-site services
	Office Use	for business purposes associated with home occupation	for business purposes associated with home occupation	for businesses that are commonly accessory to principal use
	Storage of Equipment Used for Off-Site Activities	no	no	only if stored in an enclosed structure, and if associated with principal use
Operation	Visits	appointment only	appointment only	scheduled and unscheduled visits
	Services Rendered	on-site	on-site	on-site
	Distribution of Goods	drop-off, pick-up and collection of goods	drop-off, pick-up and collection of goods	drop-off, pick-up and collection of goods
	Equipment	common to a residence	common to a residence	specific to home occupation

Standards		Non-Impact	Minor	Major
Restrictions	Location	in principal structure	in principal and/or accessory structure	in principal and/or accessory structure (can have one dedicated accessory structure)
	Percent or Amount of Structure	no more than 25% of habitable floor area of one floor of dwelling unit	no more than 25% of habitable floor area of one floor of dwelling unit	no more than 25% of habitable floor area of one floor of dwelling unit and no more than 1000 sq. ft. of an accessory structure for storage only
	Vehicle Trips	5 per day	20 per day	30 per day or less
	Number of Appointments	1 per hour	2 per hour	N/A
	Parking	no parking in addition to what is required for residence	no parking in addition to what is required for residence	dedicated off-street parking in accordance with Sec. 7-9
	Equipment Usage	only if common to residence	only if common to residence	1 large piece of equipment, of 8000 lbs. or greater, and 2 other pieces of equipment of 8000 lbs. or less
	Equipment Storage	no	no	in the dedicated, enclosed, accessory structure
	Employees	only family members residing on the parcel	only family members residing on the parcel	family members residing on the parcel plus one non-family member
Variation of Standards		May submit as special use	May submit as special use	May submit as special use

In the event of any conflict between the provisions of the Table 7-2 and the provisions of the text of Section 40-7-2 of this Chapter, the provisions of the text of this Chapter shall control. **(Ord. No. 2016-01; 01-19-16)**

(F) **Issuance of Permit for Existing Home Occupation.** A resident of an existing home occupation that is operating without a permit shall have **fourteen (14) days** from the date of notification by the Zoning Administrator to apply for a home occupation permit in accordance with the provisions of **Section 40-5-5 ("Special Use Permits")**.

(G) **Expiration of Certificate.** The home occupation permit shall expire either:
(1) when the resident changes the home occupation; or
(2) when the home occupation ceases operation for **one (1) year** or longer; or
(3) when the resident (permittee) moves away from the property.

(H) **Annual Verification and Fee.** Permits for all home occupations shall be renewed on an annual basis and a fee shall be paid in accordance with the provisions of **Section 40-1-4 ("Fees")**. At the time of the annual renewal of the permit, the Zoning Administrator shall verify that the home occupation continues to meet the standards set forth in this Section and may inspect any home occupation to verify such compliance.

40-7-3 TEMPORARY USES.

(A) **Temporary Use Permit Required.** Unless expressly provided to the contrary in this Section, the following temporary uses are permitted in any district without a permit, subject to the applicable setback regulations of the district in which the use is located:

- (1) Contractor's Offices and Construction Equipment Sheds;
- (2) Real Estate Offices;
- (3) Garage and yard sales;
- (4) Tents;
- (5) Christmas Tree Sales;
- (6) Roadside Stands for the Seasonal Sale of Farm Produce;
- (7) Arts and Crafts Shows;
- (8) Carnivals and Circuses;
- (9) Temporary Sales; and
- (10) Religious Events

(B) **Use Limitations.** Whenever a temporary use permit is required, the temporary use shall be subject to the specific regulations and time limits that follow, and to other applicable regulations of the district in which the use is located:

- (1) Any temporary use, together with any principal use, shall not jointly exceed the land use density or intensity that is applicable to the district in which it is located.
- (2) No signs in connection with the temporary use shall be permitted except in accordance with **Section 40-7-6 ("Signs")**.
- (3) The temporary use shall operate only during the hours and dates specified in the permit.
- (4) Off-street parking that will reasonably be required for such temporary use shall be provided if the Zoning Administrator determines that the use would otherwise unreasonably reduce the amount of off-street parking spaces available for nearby permanent uses. The operator of the temporary use shall be responsible for guiding patrons to such parking lots.
- (5) The site of the temporary use shall be cleared of all debris at the termination of the event.

(C) **Permitted Temporary Uses.** The following uses are the temporary uses permitted in the City:

- (1) **Temporary Shelter.**
 - (a) When a natural disaster or fire renders any residence unfit for habitation, the temporary use of a mobile home or recreational vehicle located on the parcel is permitted during the rehabilitation or reconstruction of a new residence.

- (b) The person occupying or intending to occupy the mobile home or recreational vehicle shall apply for a temporary use permit as soon as practicable after the emergency occupation has begun.
 - (c) The mobile home or recreational vehicle shall be located at least **ten (10) feet** from the dwelling unit that is being rebuilt and shall meet all applicable side and rear setbacks for the principal structure.
 - (d) The maximum length of the temporary use permit shall be **six (6) months** but may be extended by the Zoning Administrator if the need for such continuance is demonstrated.
 - (e) The Zoning Administrator shall require appropriate health department permits for water supply and sewage disposal prior to the issuance of the temporary use permit.
 - (f) The temporary shelter shall be removed from the parcel after an occupancy permit has been issued for the new or rehabilitated residence.
- (2) **Two Dwellings on One Parcel.**
- (a) A temporary use permit may be issued to allow an individual to live in the existing residence while building a new residence on the same parcel.
 - (b) The temporary use permit shall be issued for a period of not more than **two (2) years**, and shall not be extended without a variance.
 - (c) The Zoning Administrator shall require appropriate health department permits for water supply and sewage disposal prior to the issuance of the temporary use permit.
 - (d) The original residence shall be removed from the parcel within **thirty (30) days** after a Certificate of Occupancy has been issued for the new residence. Removal includes demolition of the original residence after issuance of a demolition permit; moving the original residence to another parcel after issuance of a moving permit; or conversion of the original residence into an accessory building, that meets all requirements of this Code, following issuance of a building permit.

40-7-4 ACCESSORY STRUCTURES AND USES.

(A) **General Requirements.** In addition to other requirements, this Section establishes further requirements and restrictions for particular accessory uses and structures. Any accessory use or structure shall be required to obtain the same type of approval under **Article V ("Development Review Procedures")** of these regulations as the principal use would have to obtain. Any accessory use or structure may be approved in conjunction with the approval of the principal use. However, no construction on an accessory use or structure shall be commenced before the principal use is approved and construction on the principal use has commenced in accordance with these regulations, except as allowed in Subsection (I) below.

(B) **Accessory Dwellings.** An accessory dwelling shall be permitted in any residential district in accordance with the requirements in this Subsection. Except as provided in Subsection (B)(7) below, all accessory dwellings shall be located within the primary dwelling.

- (1) The principal use of the lot shall be a detached dwelling.
- (2) No more than **one (1)** accessory dwelling shall be located on a lot.
- (3) The accessory dwelling shall be owned by the same person as the principal dwelling.
- (4) The accessory dwelling shall share the driveway serving the principal dwelling.

- (5) The accessory dwelling shall have a floor area no greater than **fifty percent (50%)** of the floor area of the principal dwelling, with a minimum of **three hundred fifty (350) square feet** and a maximum of **eight hundred (800) square feet**.
- (6) If the entrance to the accessory dwelling is separate from the entrance to the principal dwelling, then that entrance shall not face any street on which the lot fronts.
- (7) If the dwelling will be in a detached accessory structure, then that structure shall also serve as a garage for residents of the principal dwelling.
- (8) The dwelling shall not be used for rental property for non-family members.

(C) **Accessory Structures.** An accessory structure shall be permitted in accordance with the requirements that follow:

- (1) For lots and parcels used for residential purposes, the lot coverage for accessory structures shall be included as part of the calculation of "lot coverage" for each district.
- (2) For lots and parcels used for residential purposes in the A-1 or A-2 Agricultural Districts which are greater than **five (5) acres** and which are not in platted subdivisions, there shall be no limitations on the floor area of accessory buildings except as set forth in Subsection (1), above.
- (3) For lots and parcels used for residential purposes in the A-1 or A-2 Agricultural Districts which are **five (5) acres** or less and which are not in platted subdivisions, the total floor area of any accessory building shall not exceed **one thousand three hundred (1,300) square feet**, plus **three hundred (300) square feet** per acre. Fractional acres shall be rounded to the nearest whole acre.
- (4) For lots and parcels in platted subdivisions not created by tract surveys or in residentially zoned districts, the total floor area of all accessory buildings, attached or detached, exclusive of **one (1)** private garage, shall not exceed the footprint of the principal structure or **one thousand three hundred (1,300) square feet**, whichever is less. No building shall be larger than the footprint of the principal structure, which includes any attached garage.

(D) **Accessory Uses, Structures and Appurtenances.** All accessory uses, structures and appurtenances shall be permitted in accordance with the requirements that follow:

- (1) Accessory Structures (including but not limited to detached garages, playhouses, sheds, storage buildings, and swimming pools,) shall be required to meet or exceed the minimum setback requirements of the underlying zoning district, unless otherwise provided for in this Section. All attached garages shall be considered a portion of the principal structure for setback purposes.
- (2) Appurtenances (including but not limited to air conditioners, arbors and trellises, awnings, balconies, bay or box windows, canopies and marquees, chimneys, cornices and other ornamental features, eaves and gutters and fire escapes) attached to the principal structure are exempt from all setback requirements.
- (3) Appurtenances such as decks, patios, and porches shall meet or exceed the minimum accessory structure setbacks of the underlying zoning district.

(E) **Outdoor Lighting.** The following restrictions shall apply to any outdoor lighting located in any district and should serve to protect against excessive glare and light spilling over to neighboring properties:

- (1) All outdoor lighting for nonresidential uses shall be located, screened, or shielded so that adjacent lots located in residential districts are not directly illuminated.
- (2) No outdoor lighting shall be of such an intensity or brilliance so as to cause glare or to impair the vision of drivers.
- (3) Except as specifically exempted in Subsection (4) below, the maximum permitted luminaire height shall be **forty (40) feet**.
- (4) Outdoor recreational uses permitted as part of a special use shall meet all of the requirements of this Section, with the exception that the permitted post height cannot exceed **eighty (80) feet**.
- (5) Conditions relating to the location and hours of operation for outdoor lighting may be imposed on outdoor recreational uses.
- (6) No flickering or flashing lights shall be permitted, other than holiday decorations.

(F) **Stadia and Auditoria.** Stadia and auditoria that are accessory to schools are permitted, provided that:

- (1) The use shall be located on a lot of at least **five (5) acres**;
- (2) Direct vehicular access to the use shall not be provided by way of a local street;
- (3) No direct beams of light from outdoor lighting features, signs, or vehicles maneuvering on the site shall shine into any abutting property located in a residential district; and
- (4) Off-street parking areas shall be designed and screened in accordance with the provisions of **Section 40-7-7 ("Landscaping and Bufferyards")**.

(G) **Automobile Rental.** Automobile rental shall be permitted as an accessory use where the principal use is an automobile dealership, a commercial retail establishment, or an airport.

(H) **Commercial Accessory.** The following uses may be considered accessory to an associated principal use of the property they are located on, and the following standards shall apply:

- (1) **Detached ATM:** May be located in any side or rear yard, but no closer than **ten (10) feet** from a property line as measured from the foundation or footings of the structure, and if an eve, canopy or awning is used, then the drip line of such shall be no closer than **five (5) feet** of any property line, but in no case shall either encroach into any required buffer yard. Standards established within **Section 40-7-8(K)** shall be incorporated into the design and location of such use, with care taken to ensure buffering of adjacent properties from vehicle headlights.
- (2) **Free Standing Canopy:** The supports of a canopy shall be located no closer than **twenty (20) feet** of a front lot line and **fifteen (15) feet** of a side or rear lot line, nor shall the drip line be closer than **five (5) feet** from any property line. In no case shall such canopy supports or drip line be located within any required buffer yard.
- (3) **Fuel Stations:** Shall be located no closer than **twenty (20) feet** of a front lot line and **fifteen (15) feet** of a side or rear lot line, but may not be located within any required bufferyard.

(I) **Accessory Structures Permitted without a Principal Structure.** The following accessory structure shall be permitted without a principal structure:

- (1) Agricultural Structures
- (2) Detached ATM's
- (3) Open picnic shelters

40-7-5

FENCES.

(A)

Fence Permit Application.

- (1) No person shall erect a front yard fence within the City without first having received a fence permit from the Zoning Administrator, unless the fence is for agricultural purposes. In addition, a building permit may be required.
- (2) Applications for a front yard fence permit shall be submitted with the appropriate fee as set forth in **Section 40-1-4, Fees**, to the Zoning Administrator.

(Ord. No. 2013-15; 09-03-13)

(B)

Exemption. The following fences are exempt from permit requirements:

- (1) Fences used for agriculture purposes/operations.
- (2) Ornamental fencing consisting of decorative posts, lattices, arbors, trellises.
- (3) Fences comprising less than **one hundred (100) feet** of total lineal distance.
- (4) Fences in rear and side yards.

(Ord. No. 2013-15; 09-03-13)

(C)

Prohibited Fences. Except as specifically provided below in Subsection (D) below, the following types of dangerous or hazardous fences shall not be permitted to be either erected or maintained within the City:

- (1) barbed wire fences;
- (2) electrical fences;
- (3) spiked fences;
- (4) fences with broken glass or other sharp points imbedded;
- (5) any other type of fence that could result in injuries to persons climbing over such fences; and
- (6) fences that are leaning in such a manner that an angle of **fifteen (15) degrees** or more is produced when measured from the vertical.

(D)

Exceptions for Hazardous Fencing. Hazardous or dangerous fences, such as those listed in Subsection (B), above, shall only be permitted in the City for the following uses:

- (1) Agricultural uses;
- (2) Public utility structures (at least **eight (8) feet** above grade level);
- (3) Telecommunication carrier facilities (at least **eight (8) feet** above grade level); and
- (4) Penal institutions (at least **eight (8) feet** above grade level).

(E)

General Maintenance Requirements. All fences shall be maintained in good and sound condition and shall not create a harborage for rodents.

(F)

Design, Location and Height Requirements of Fences in Residential Districts.

- (1) No fence may exceed **six (6) feet** in height.
- (2) Except as provided in Subsection (F)(3) below, no solid fence shall be constructed in a front setback past the front building line.
- (3) An open fence may be erected in a front setback past the front building line. The height of such fences shall not exceed **four (4) feet.** **(Ord. No. 2013-15; 09-03-13)**
- (4) Except as provided in Subsection (F)(3) above, in the case of solid fences on corner lots, that part of the fence which encloses the side setback shall be erected **ten (10) feet** from the property line.
- (5) Perimeter fences may be erected in the side and rear setback behind the front building line.

(G)

Design and Height Requirements of Fences in Agricultural Districts.

- (1) Fences that are located around dwelling units and other residential structures in agricultural districts shall meet the requirements of Subsection (F), above.

- (2) Fences that are located around non-agricultural and non-residential uses, such as storage buildings, shall meet the requirements of Subsection (H) below.

(H) **Design and Height Requirements of Fences in Nonresidential Districts.**

- (1) Fences that are constructed in a nonresidential district may be either open or solid fences and shall not exceed **eight (8) feet** in height.
- (2) Fences that are erected to separate residential and nonresidential properties shall meet the buffering requirements set forth in **Section 40-7-7 ("Landscaping and Bufferyards")**.

(I) **Fences That Screen Parking Lots.** Any fence erected to screen a parking lot shall meet the buffering requirements set forth in **Section 40-7-7 ("Landscaping and Bufferyards")**.

(J) **Swimming Pool Fences.** Fences surrounding private residential swimming pools shall meet the requirements of **Chapter 21** of the City Code.

(K) **Fences For Recreational Activities.** Any fence erected around a recreational activity, such as a tennis court or a baseball backstop, may exceed the height requirements set forth in this Section, upon the specific approval of the Zoning Administrator.

(L) **Fences Around Telecommunication carrier facilities.** A fence shall be required around the perimeter of all communication support structures (unless the antenna is mounted on top of an existing structure). The fence shall be **eight (8) feet** in height, and at the discretion of the Zoning Administrator, may be required to be barbed along the top.

(M) **Special Circumstances.** At his discretion, the Zoning Administrator may impose a greater maximum fence requirements on those uses which due to their special circumstance, require distinct consideration.

The decision of the Zoning Administrator shall be based on the following standards:

- (1) That the requirement of a taller fence will not alter the general character of the surrounding area.
- (2) That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an adverse impact to surrounding area would occur if the strict letter of these regulations were applied.
- (3) That the construction of a taller fence will enhance the public health, safety, comfort, morals, or welfare, and will not be injurious to other property in the surrounding area.
- (4) That the taller fence will not impair an adequate supply of light and air to adjacent property.

40-7-6 SIGNS.

(A) **Purpose.** The purpose of these regulations is to manage signs and their placement throughout the jurisdiction of the City in order to promote the use of signs which are safe, compatible with their surroundings, and legible in the circumstances in which they are seen. These regulations shall in no case be construed to prohibit an individual's First Amendment right of free speech. These regulations also recognize the need for a well-maintained and attractive physical appearance of the City and the need for adequate business identification for the conduct of competitive commerce. This Section is therefore intended to benefit the general community by protecting property values and by reducing sign or advertising distractions which may adversely impact traffic safety and result in visual congestion for pedestrians.

(B) **Permit Requirements.**

- (1) Except as provided in Section (J) below Signs Allowed Without a Permit, it is unlawful for any person to erect, construct, enlarge, move, or convert any sign in the City, or cause the same to be done, without first obtaining a sign permit for each such sign from the Zoning Administrator.

- (2) No new sign permit is required for any sign which exists on the effective date of these regulations unless the sign is hereafter altered, relocated, or reinstalled.
- (3) Every sign permit issued shall become null and void if installation is not commenced within **one-hundred eighty (180) days** from the date of such permit.

(C)

Sign Permit Application.

- (1) Application for a sign permit shall be made in writing to the Zoning Administrator on a form furnished by the Zoning Administrator accompanied by a fee set forth in **Section 40-1-4, Fees.**
- (2) The permit shall include the following information:
 - (a) The name and address of the applicant and the sign contractor who will be performing the work;
 - (b) The location, by street address, of the building or structure to which the sign is to be attached or the lot on which the sign is to be erected;
 - (c) A set of plans and specifications showing the location, support, attachment to the building or ground, method of illumination, and lighting intensity; and;
 - (d) A sketch showing the sign faces, exposed surfaces, and proposed message, accurately represented in scale as to size and proportion and showing, if the sign is to be attached to a building, the sign on the facade of the building.
 - (e) The length of the display between message transitions.
- (3) A sign permit shall only be issued after the Zoning Administrator determines that the proposed development is in compliance with all the requirements of this section, any other applicable sections of this Chapter, and any other applicable chapters of the City Code.
- (4) Permits shall be issued for the life of the sign, or any shorter period as stated on the approved permit application. However, any permit may be revoked at any time by the Zoning Administrator upon finding that the sign violates any provision of this Section or that the permittee made false representations in securing the sign permit. No fee which the permittee paid for the permit shall be refunded when a permit is revoked.
- (5) If required, a permit shall be obtained from the Illinois Department of Transportation in compliance with the standards of the Illinois Outdoor Advertising Control Act of 1971, as amended (**225 ILCS 440/1 et seq.**).

(D)

Illumination Standards.

Internally or externally illuminated signs shall meet the following requirements:

- (1) Signs shall be illuminated only by steady, stationary, shielded, or shaded light sources directed solely at the sign, or internal to it so that the light intensity or brightness does not create either a nuisance to adjacent property or a traffic hazard for motorists or pedestrians. No signs shall be illuminated at a light level that exceeds **two thousand five hundred (2,500) lambert.**
- (2) Except where a combination of individual exposed bulbs displays information, such as time, temperature or date illuminated signs, no exposed reflective-type bulb and no strobe light or unshielded incandescent lamp shall be used on the exterior surface of any sign.
- (3) Whenever external illumination is used for a sign, the source of light shall be located, shielded, and directed in such a manner that the light source is not visible from a public street or private residence.

- (E) **Special Regulation for Electronic Multiple Message Signs.**
- (1) Sign content/messages shall be static images only. No sign shall consist of video and shall not move, animate, flash, or behave in any other way which constitutes or implies motion. Images shall remain static except during transition.
 - (2) Electronic multiple message signs are permitted to change their message no more than once per every **ten (10) seconds**, except that time or temperature signs are allowed to change no more than once per every **three (3) seconds**.
 - (3) There shall be no animation, traveling, scrolling, fades, or dissolves during the transition of messages. Transitions between content/message shall be instantaneous.
 - (4) Electronic multiple message signs shall be equipped with light sensing devices or a scheduled dimming timer which automatically dim the intensity of the light emitted by the sign during ambient low-light and nighttime (dusk to dawn) conditions. The sign shall not exceed **five hundred (500)** lambert of intensity as measured at the sign surface during nighttime and low-light conditions and **two thousand five hundred (2,500)** lambert during daytime hours.
 - (5) Electronic multiple message signs shall be properly maintained. Bulbs, LED's, pixels and the like shall be in working, properly illuminating conditions at all times.

- (F) **Locational Restrictions.** The location of signs shall be restricted as follows:
- (1) No sign shall be erected so as to impair access to a roof or prevent free ingress or access from any door, window, fire escape, driveway or utility line.
 - (2) No sign shall be erected upon, against, or directly above a roof or on top of or above the parapet of a building, whichever forms the top line of the building silhouette.
 - (3) No sign may interfere with traffic flow or imitate or interfere with any street signs, signal, or device.
 - (4) No sign shall be permitted within a sight triangle, except for safety-related signs.
 - (5) Freestanding identification signs on an individual lot shall be separated by a minimum of **one hundred fifty (150) feet** as measured along the road frontage.
 - (6) Wall signs may not cover more than **twenty percent (20%)** of the facade of the building.

(G) **Setbacks.** Except as provided in Sections (F)(6), (J)(15), and (K)(5), the minimum setback from the right-of-way property line shall be **five (5) feet**. The setback from the side and rear property lines shall conform to the accessory structure setbacks in the underlying zoning district.

(H) **Accessory Structures and Uses.** Subject to the regulations in this Section, signs shall be permitted accessory structures and uses in both residential and nonresidential districts.

(I) **Prohibited Signs.** Except as specifically provided otherwise in this Section, the following signs shall be strictly prohibited throughout the City:

- (1) Portable signs, except as provided on a temporary basis in Subsection (J)(18), below.
- (2) Streamers, posters, ribbons, light strings, light bulbs, light bands, spinners, attention-getting devices that move or revolve, signs (other than neon signs) which contain bare bulbs, unshielded light or tubes which are visible from a public street or a private residence, and electronic or flashing signs, except time, temperature, date, and message center signs that are otherwise permitted herein.
- (3) Abandoned or defunct signs, including the posts or other supports that advertise or identify an activity, business product or service that is no

longer conducted or available on the premises where such sign is located. The property owner shall remove said sign within **sixty (60) days** of notification by the Zoning Administrator.

- (4) A-frame, sandwich board, sidewalk or curb signs, except as provided on a temporary basis in Subsection (J)(18), below.
- (5) Signs which by reason of their size, location, movement, content, coloring or manner of illumination may be confused with or construed to be a traffic-control sign, signal or device, or the light of an emergency or road equipment vehicle, except where such sign is accessory to a parking area and gives directions or instructions to drivers or pedestrians.
- (6) Signs which interfere with traffic signals.
- (7) Signs or any advertising device attached to or located on a parked vehicle or trailer on private property for the basic purpose of providing advertising of products or services or directing people to a business or activity located on the same or nearby property or any other premises, except for temporary truckload sale signs.
- (8) Projection signs which project over a street or alley.
- (9) Projection signs, other than canopy, awning, or marquee signs, which project more than **two-thirds (2/3)** the distance over any sidewalk and which are less than **ten (10) feet** above grade.
- (10) Signs which contain radio or microwave transmitters.

(J) **Signs Allowed Without a Permit.** The following activities shall not require sign permits, provided that the sign otherwise meets all of the requirements of this Section:

- (1) Signs that are not visible beyond the boundaries of the lot or parcel upon which they are situated or from any public thoroughfare or right of way.
- (2) Signs which are located completely within an enclosed building, and which are not visible from outside of the building.
- (3) Integral signs, such as names of buildings, date of erection, monumental citations, and commemorative tablets when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the structure.
- (4) Changing of the advertising copy or message on an existing approved sign which is specifically designed for the use of replaceable copy.
- (5) Changes in the content of a window display, window signs, and window promotional signs.
- (6) Changes in the content of permitted temporary signs.
- (7) Painting, repainting, cleaning, or other normal maintenance and repair of a sign for which a permit has been previously issued, so long as the sign is not otherwise modified in any way.
- (8) Public signs.
- (9) Signs painted on or attached to a truck, bus, trailer, or other vehicle which is used in the normal course of a business which is not primarily the display of the sign on the vehicle.
- (10) "No trespassing" signs, warning signs (such as "Beware of Dog"), notification signs for emergency personnel, and other such signs.
- (11) Private (noncommercial) nameplate identification signs or street address identification signs which do not exceed **two (2) square feet** in area.
- (12) Temporary signs that celebrate the occasion of traditionally accepted patriotic or religious holidays as well as national and State holidays.
- (13) Temporary signs for events of a general City-wide civic or public benefit nature, no larger than **sixteen (16) square feet**.
- (14) Temporary real estate for sale or lease signs, personal celebration, special events, and garage sale signs.

- (15) Signs designating parking areas and entrances and exits to parking areas (other than parking areas for single family dwellings) shall be permitted, provided:
 - (a) no more than **one (1)** such sign identifies each parking lot and no more than **one (1)** such sign identifies each exit or entrance; and
 - (b) no such sign(s) exceeds a sign surface area of **four (4) square feet**, is higher than **thirty (30) inches**, and is closer than **one (1) foot** to the property line.
- (16) Temporary signs announcing any public, charitable, political, educational, or religious event are permitted, up to a sign area allowed for the same type of permanent sign. Such signs shall be allowed once a year for no more than **thirty (30) days** prior to the particular event and must be removed within **seven (7) days** after the event.
- (17) **Construction Signs.** **One (1)** sign shall be permitted that lists the building contractors, professional firms, and lending institutions on sites under construction. The sign shall be confined to the site of the construction, construction shed, or trailer and shall be removed no later than **fourteen (14) days** after the completion of the project. Construction signs for projects up to **ten (10) acres** shall not exceed **thirty-two (32) square feet**. For construction projects exceeding **ten (10) acres**, the sign shall not exceed **sixty-four (64) square feet**.
- (18) **Temporary Banners, Pennants, Hot Air Balloons, Portable Signs and Sandwich Boards.** Banners, pennants, hot air balloons, portable signs, and sandwich boards are permitted for grand openings, sales, and other similar special events on a temporary basis, for no more than **thirty (30) days** at a time, and no more than **two (2) times** per year.

(K) **Signs Allowed With a Permit.** The following signs are required to obtain a permit and shall be allowed in accordance with the regulations set forth in this Subsection (K) and elsewhere in this Section:

- (1) **Not-For-Profit Signs.** Name and informational signs and emblems of service clubs and not-for-profit identification signs shall not exceed **forty (40) square feet** per sign face area. Such sign or signs on a corner lot may face each street but the total area shall not exceed a maximum of **forty (40) square feet** per sign.
- (2) **Multi-Family Building Nameplate and Identification Signs.**
 - (a) In any multi-family dwelling in which a rental office is permitted, **one (1)** nameplate sign and **one (1)** identification sign shall be allowed at each vehicular entrance from a public right-of-way and at each major public entrance to the dwelling for all offices in the dwelling.
 - (b) The identification sign shall not exceed **twenty (20) square feet**.
 - (c) **One (1)** residential nameplate sign not exceeding **two (2) square feet** in each area shall be permitted per dwelling unit.
 - (d) The identification sign shall indicate only the name, address, telephone number, and rental information.
- (3) **Subdivision Identification Signs.**
 - (a) Signs shall not exceed **forty-eight (48) square feet**.
 - (b) Identification signs shall be located at least **five (5) feet** from any property line, and the sign shall not be located in the sight triangle or otherwise impair the visibility of a vehicle from a road or driveway.

- (4) **Non-Residential Signs.** Freestanding identification signs and wall signs shall be allowed in nonresidential districts, subject to the following requirements:
 - (a) No sign face shall exceed **one (1) square foot** for each lineal foot of street frontage, up to a maximum of **one hundred (100) square feet** of total sign face, and a height of **twenty-five (25) feet**.
 - (b) If a development fronts on more than **one (1) street**, signs may be placed on each road frontage, so long as they meet the **one hundred fifty (150) foot** spacing requirement in Section (F)(5), above. **One (1) corner sign** may be substituted for the signage allowed on the **two (2) connecting road frontages**, provided that the sign face of the corner sign does not exceed **one hundred (100) square feet**.
 - (c) For commercial retail establishments or nonresidential or mixed use planned developments that are comprised of more than **one (1) store** and that exceed **fifty thousand (50,000) square feet**, an additional identification sign for the entire establishment or planned development that does not exceed **one hundred (100) square feet** shall be permitted.
- (5) Directional signs may be permitted for agriculturally related businesses and public and non-profit facilities. Such signs may be located off-premises, shall not exceed **twenty-four (24) square feet**, and shall not be placed any closer than **one (1) foot** to a right-of-way.
- (6) **Billboards.**
 - (a) Billboards shall be permitted as-of-right in any zoning district when the requirements of the Illinois Outdoor Advertising Control Act of 1971, as amended (**225 ILCS 440/1 et seq.**) are applicable.
 - (b) If Subsection (K)(6)(a), above, is not applicable, then billboards may be permitted as a Special Use in an Industrial District, in accordance with the procedures and standards set forth in **Section 40-5-3 ("Special Use Permits")**, provided they meet the following requirements:
 1. Signs shall be constructed of steel with monopole or uni-pole design and shall not be stacked;
 2. Signs shall not exceed **seven hundred (700) square feet** per sign face area;
 3. No sign shall exceed **thirty (30) feet** in height;
 4. Signs shall be separated by **one-quarter (1/4) mile** along the same road frontage; and

(L) **Waiver from Requirements of this Section.**

- (1) A variance shall be obtained to vary from the bulk requirements (for example, size of sign, setbacks from right-of-way) of this Section.
- (2) A special use shall be obtained to vary from the locational standards (for example, a non-residential sign that is a billboard located off premise) of this Section.

40-7-7

LANDSCAPING AND BUFFERYARDS.

(A) **Purpose.** The requirements of this Section are intended to provide a minimum amount of landscape material as a means of fostering the objectives, below, while providing flexibility in landscape design.

- (1) Achieve the City-wide goals of minimizing the conversion of open space land to urban uses and properly buffering incompatible uses.
- (2) Aid in stabilizing the City's ecological balance by contributing to the process of air purification, oxygen regeneration, ground water recharge, and stormwater runoff retardation, while at the same time aiding in noise, glare, wind, and heat abatement.
- (3) Preserve and protect the unique identity and environment of the City and preserve the economic base attracted to the City by such factors.
- (4) Provide for the preservation of larger existing trees which provide a valuable natural resource, and once destroyed, can only be fully replaced after generations.
- (5) Reduce soil erosion and thereby reduce sedimentation of the creeks and watersheds in and around the City.

(B) **Applicability and Exemptions.**

- (1) Landscaping requirements set forth in this Section shall apply to all improvements to a parcel with the exception of the following:
 - (a) Agriculture uses and structures;
 - (b) Single and two-family dwellings;
 - (c) Temporary Uses identified in **Section 40-7-3 ("Temporary Uses")** of these regulations; and
- (2) Landscaping requirements shall apply to all new development and any addition to an existing development in which the total cost of the improvements is **fifty percent (50%)** or more of the reproduction cost of the structure. For purpose of calculating percentages of reproduction cost, the cost of construction shall be construed as the total actual combined cost of all alterations made within any period of **thirty (30) continuous months.**

(C) **Performance Standards.** All landscape plans shall fully meet the following performance standards of this Section in order to receive approval.

- (1) Landscaping shall not impede the line of sight necessary for motorists and pedestrians to move into, out of, and within the site.
- (2) Landscaping materials shall be selected and placed in such a manner that they do not interfere with or damage existing utilities.
- (3) Landscaping materials shall be selected and placed so that they do not inhibit the safe and enjoyable use of surrounding properties.
- (4) Landscaping should reduce the intrusion of headlights and other glare and also provide a barrier between pedestrians and vehicles.
- (5) Landscaping should offer a visual separation or screen between land uses that have intense activities or significantly different appearances, or that are otherwise incompatible to some degree.

(D) **Landscaping Point Values.** The amount of all required landscaping shall be calculated by utilizing the point system described herein.

- (1) The requirements for a given yard or parking lot shall be the total of all equations listed under the applicable Section. In calculating any requirement in this Section, should a fraction result of **one-half (0.5)** or greater, it shall be rounded up to the next whole number. The following point allocations shall apply for all required landscaping:

**Table 7-3
LANDSCAPING POINT VALUES**

Tree Classification	Point Value	Shrub Classification	Point Value
Shade Trees	18 points	Evergreen Trees	8 points
Evergreen Trees	18 points	Evergreen Shrubs	3 points
Intermediate Trees	12 points	Deciduous Shrubs	2 points

- (E) **Front Yard Landscaping.**
- (1) The number of points that must be achieved through landscaping for all front yards shall be based on the overall length of the lot frontage as measured along the front property line(s) divided by **two (2)**. For example, if the frontage of a property is **two hundred twenty (220) feet** in length, then **one hundred ten (110) points** must be achieved through landscaping.
 - (2) The minimum points applicable shall be **eighty (80) points**.
 - (3) **One-half (½)** of the points for front yard landscaping must be achieved by utilizing plants from the tree classification and **one-half (½)** must be from the shrub classification.
 - (4) Front yard landscaping shall be planted in the required front yard.
- (F) **Parking Lot Landscaping.**
- (1) The number of points that must be achieved for parking lots through landscaping shall be equal to the total number of parking spaces provided. The points may be achieved through the use of any combination of trees and/or shrubs.
 - (2) When a parking lot has less than **one hundred (100) parking spaces** the landscaping may be placed within interior curbed parking islands and/or within **ten (10) feet** of the perimeter of the parking lot.
 - (3) When a parking lot has **one hundred (100)** or more parking spaces, **one-half (½)** of the required points shall consist of shade trees planted in curbed islands within the interior of the parking lot. The intent of this provision is to break up large expanses of pavement and to provide shading by locating shade trees away from the perimeter and within the interior of parking lots.
 - (4) The minimum area for planting all types of trees within parking lots shall not be less than **12.5 feet x 12.5 feet** or **157.25 square feet**. Shade trees and intermediate trees shall not be planted in any area with a width of less than **five (5) feet**. Evergreen trees shall not be planted in an area with width of less than **two (2) feet**.
- (G) **Transitional Buffer Yards.**
- (1) A transitional buffer yard (TBY) shall be required to buffer incompatible uses as follows:
 - (a) A commercial or industrial development from adjacent parcels that are either zoned residential or used residentially or institutionally;
 - (b) An institutional or multi-family residential development from adjacent parcels that are zoned or used residentially, commercially or industrially;
 - (2) **Depth of Yard.** The lot for any use described above, is required to have a TBY that is **ten percent (10%)** of the lot width or depth, whichever is applicable. However, no TBY shall be less than **ten (10) feet** nor more than **twenty-five (25) feet**.
 - (3) **Reduction of TBY Requirements.** The width or depth, whichever is applicable, of a TBY may be decreased up to **one-half (½)** of the required distance provided a solid fence is erected subject to the requirements of **Section 40-7-5, ("Fences")**. The placement of a fence shall not decrease the required plant materials for a TBY, as specified below.
 - (4) **Prohibited Materials in TBY.** Any TBY required shall be maintained as a planted or landscaped area only. No storage of materials, mechanical equipment, materials other than landscaping, or structures of any form shall be located within any required TBY.

- (5) **Required Plant Materials for Transitional Buffer Yards.**
- (a) The number of points that must be achieved through landscaping in a TBY shall be based on the overall length of TBY as measured along the TBY property line. For example, if the property line running the length of the TBY is **one hundred eighty (180) feet** long, then **one hundred eighty (180) points** must be achieved through landscaping.
 - (b) **One-half (½)** of the points for TBY landscaping must be achieved by utilizing plants from the tree classification and **one-half (½)** must be from the shrub classification.
 - (c) **One-half (½)** of the total points for TBY landscaping must also be evergreen plantings.
 - (d) All shade trees in a TBY must be **three and one-half (3½) inches** caliper size or larger.

(H)

Minimum Landscaping Requirements.

- (1) **Plant Material.**
- (a) **Prohibited Trees.** The following weak-wooded and generally undesirable trees, for urban conditions, shall be prohibited for use in meeting any of the requirements of this Article:
 1. Ailanthus (Tree of Heaven);
 2. Box Elder;
 3. European Mountain Ash;
 4. European White Birch;
 5. Mulberry;
 6. Poplar;
 7. Purple-leaf plum;
 8. Russian Olive;
 9. Siberian Elm;
 10. Silver Maple;
 11. Willow.
 - (2) **Minimum Plant Material Size.** At the time of planting, all trees required by the Section shall be of the following minimum size. Trunk caliper shall be measured **two (2) feet** above the ground:
 - (a) **Shade Trees** - Trunk caliper (diameter) of **two and one-half (2½) inches**. Shade trees shall have a trunk caliper of **three and one-half (3½) inches** for TBY purposes.
 - (b) **Evergreen Trees** - **Six (6) feet** in height.
 - (c) **Intermediate Trees** - Single stem varieties shall have a trunk caliper (diameter) of **one and one-half (1½) inches**. Multi-stem varieties shall have a minimum height of **six (6) feet**.
 - (d) **Shrubs (all)** - **Two (2) feet** in height or spread.
 - (3) **Ground Cover and Mulching Requirements.**
 - (a) **Ground Cover Requirements.** All yards shall be planted and maintained with a vegetative ground cover such as sod or seed before a final Certificate of Occupancy can be issued.
 - (b) **Mulching Requirements.** All required shrubs and trees shall be mulched.
 - (4) **Mechanical Equipment Screens.** All ground level mechanical equipment and utilities shall be fully screened from view of any residential zoning district as seen from **six (6) feet** above ground level.

(I)

Incentives.

- (1) **Incentive for Preserving Existing Landscaping.** Existing landscaping that is in a vigorous growing condition and is not specifically prohibited by this Code may count toward meeting the point requirements of this Section. Furthermore, the following plant materials

will be awarded **five (5)** additional points (added to base value) per tree when preserved:

- (a) **Shade Trees – Twelve (12) inches** diameter trunk or greater
 - (b) **Intermediate Tree – Fifteen (15) feet** height or taller
 - (c) **Evergreen Tree – Fifteen (15) feet** height or taller
- (2) **Incentive for Planting Larger Landscaping.** Planting of landscaping larger than the minimum required sizes as specified herein will be rewarded with **five (5)** additional points (added to base value) per tree when the proposed sizes are as follows:
- (a) **Shade Trees – Four (4) inches** diameter (**five (5) inches** in Transitional Buffer Yard (TBY's)) or greater
 - (b) **Intermediate Tree – Ten (10) feet** height or taller
 - (c) **Evergreen Tree – Ten (10) feet** height or taller

(J)

Landscape Plan.

- (1) **Landscape Plan Submittal Requirements.**
 - (a) All landscape plans must be submitted for approval as part of the building permit application, as identified in these regulations.
- (2) **Content of Landscaping Plan.** The following information must be shown on the required landscape plan:
 - (a) North arrow, scale, date of preparation and revisions, name of designer/drafter;
 - (b) Location of all buildings, structures and pavement that are proposed or will remain on the site;
 - (c) Location of all existing and proposed watercourses, ponds, lakes;
 - (d) Location, size, and common name of any existing trees or shrubs that are to remain;
 - (e) Location of all landscaping that is proposed for the site including any trees, shrubs, groundcover, ornamental grasses, and flower beds (plants should be drawn to scale);
 - (f) Location of any existing or proposed signs, walls, fences, berms (one foot contour intervals), site furniture, lights, fountains, and sculptures on the site;
 - (g) Location of all property lines;
 - (h) Location of all sidewalks that are proposed for the site or currently adjoining the site;
 - (i) Plant list that describes the common name (available in any nursery catalog), quantity, and size at installation for each proposed plant;
 - (j) Any additional information that the Zoning Administrator determines is necessary to adequately review the proposal.

(K)

Landscape Maintenance.

- (1) **Responsibility.** The plantings in any landscaped area must be properly maintained in order for the landscaped area to fulfill the purposes for which it was established. Such maintenance shall include all actions necessary to keep the landscaped area free of litter and debris and to keep plantings healthy and orderly in appearance.
- (2) **Plant Materials.** All required plant materials shall be maintained in a healthy, vigorous growing condition in order to fulfill the purpose for which they were established. They shall be replaced as necessary, and shall be kept free of refuse and debris.
- (3) **Fences and Walls.** All fences, walls and other barriers shall be maintained in good repair.

40-7-8

PARKING AND LOADING REQUIREMENTS.

(A)

Purpose.

- (1) In order to reduce the visual impact of large residential and nonresidential parking areas, to minimize the adverse effects of off-street parking on adjacent properties, and to ensure the proper development of parking areas throughout the City, off-street parking and loading spaces for every use shall be provided in accordance with the standards established in this Section.
- (2) For any off-street parking area required under this Section, and for any public parking lot, parking deck, garage, and storage area operated on a commercial basis, an off-street parking plan shall be included as part of a development plan submitted in accordance with **Article V**.

(B)

Required Number of Off-Street Parking Spaces.

- (1) Except as otherwise provided in Subsection (2) below, each principal use on a parcel shall be provided with the number of off-street parking spaces indicated for that use in **Table 7-4**.
- (2) In the event that an applicant demonstrates that fewer parking spaces are needed to serve the use at the time of permit application, the ZBA may authorize a reduction in the amount of parking spaces and reserve additional land for potential use and parking spaces at a future time.
- (3) When the required number of off-street parking spaces computed according to **Table 7-4** results in a fractional number, the fraction shall be rounded up.
- (4) If a use is not listed in **Table 7-4**, the Zoning Administrator shall determine the number of off-street parking spaces that shall be required based on the standards for the most similar use listed in these regulations.
- (5) Parking requirements shall apply to all new development and any addition to an existing development in which the total cost of the improvements is **fifty percent (50%)** or more of the reproduction cost of the structure. For the purpose of calculating percentages of reproduction cost, the cost of construction shall be construed as the total actual combined cost of all alterations made within any period of **thirty (30) continuous months**.
- (6) The following uses shall be exempt from off-street parking requirements.
 - (a) Agriculture
 - (b) Public Utilities

**Table 7-4
PARKING REQUIREMENTS**

LANDUSE	REQUIRED NUMBER OF PARKING SPACES
RESIDENTIAL USES:	
Congregate elderly housing	0.5 per resident + 1 per staff person
Dwellings, detached	2 per unit
Dwellings, attached	2 per dwelling unit + .5 per bedroom over 2 bedrooms
Mobile home park	2 per unit + 1 per 2 homes
NONRESIDENTIAL USES:	
Animal hospitals, boarding & pounds	1 per 300 sq. ft.
Automobile body repair	1 per employee + 1 per 600 sq. ft.
Automobile repair	1 per employee + 1 per 600 sq. ft.
Automobile Sales	1 per 500 sq. ft. of enclosed sales space + 1 per 3,000 sq. ft. of exterior /outdoor display/sales space + 1.5 for each service bay.
Automobile service stations	2 per station + 4 per service bay
Barber/beauty	2 per chair
Bowling alleys	4 per lane
Bus, truck, semi-trailer terminals	1 per 600 sq. ft. of gross floor area
Car washes	4 stacking spaces per stall + 1 per employee
Cemeteries	1 per each full-time employee + required spaces for offices
Clinics and medical offices	1 per each employee and doctor + 1 per 200 sq. ft.
Clubs & lodges	1 per 3 seats of meeting space
Colleges and universities	1 per classroom + 1 per 3 students
COMMERCIAL RETAIL ESTABLISHMENTS, OPEN MARKETS AND SHOPPING CENTERS:	
Commercial retail establishments	1 per 200 sq. ft.
Markets, outside	1 per 200 sq. ft. of display area
Shopping centers	1 per 200 sq. ft. of gross leasable area
Community centers	1 per 300 sq. ft.
Conference center, meeting rooms	1 per 4 seats -OR- 1 per 100 sq. ft. of meeting area, whichever greater
Contractors or construction offices	1 per 300 sq. ft.
Convenience stores	1 per 150 sq. ft.
Day care centers	1 per 300 sq. ft.
Day care homes	3 per home
Drive-through service windows	3 stacking spaces per window
Dry-cleaning & laundry processing stations	1 per 500 sq. ft.
Excavating services	1 per employee
Financial institutions	6 per inside customer service window + 1 per employee
Food processing plants	1 per employee
Fraternities, Sororities & Dormitories	1 per sleeping room
Funeral parlors	1 per 200 sq. ft.
Gas Station Convenience Store	2 per fueling station + 1 per 500 sq. ft. of interior gross floor area
Golf courses	6 per green + 1 per employee
Golf driving ranges	1 per tee + 1 per employee

GOVERNMENTAL USES:	
Administrative offices	1 per 300 sq. ft.
Fire & police stations	1 per 500 sq. ft.
Libraries, art galleries	1 per 200 sq. ft.
Post offices	2 per station + 4 per service bay
HEALTH CLUBS, MARINAS, PARKS AND RECREATION AREAS:	
Ball fields and picnic areas	10 per acre
Health clubs	1 per employee + 1 per 200 sq. ft. of floor space
Marinas	1 per employee + 1 per 3 boats
Swimming pool	1 per 75 sq. ft. of water area
Tennis or racquet court	3 per court
Other indoor spaces	1 per 200 sq. ft.
Other outdoor areas	0.1 per acre
Hospitals	1 per each 2 hospital beds + 1 per each full-time employee + 1 per doctor
Laundry (coin-op.)	1 per 2 machines
Light industry and assembly	2 per 1000 sq. ft. -OR- 1 per each employee on the largest shift, whichever is greatest
Manufacturing	1.25 per 1000 sq. ft. -OR- 1 per each 0.75 employee on largest shift, whichever is greatest
Museums, civic and cultural centers	1 per 1000 sq. ft.
Greenhouses, commercial	1 per 400 sq. ft.
Nursing homes	0.25 per resident at maximum capacity + 1 per staff person
Offices, business	1 per 300 sq. ft.
Offices, professional/medical	1 per 200 sq. ft. (minimum of 5 spaces)
Overnight accommodations	1 per sleeping room + 1 per employee
Personal service establishments	1 per 200 sq. ft.
Petroleum storage facilities	1 per employee
Places of worship	1 per 100 sq. ft.
Printing, publishing or photography est.	1 per 400 sq. ft.
Private horse stables	1 per each full-time employee + 1 per every 3 horses
Public utility structures	1 per 2 employees
Residential-care homes	0.25 per resident + 1 per staff person
Restaurants-drive in	3 per cashier station + 1 per 100 sq. ft.
Restaurants and taverns	1 per 100 sq. ft.
Roadside stands	3 per establishment
Sale of building materials and automobile supplies, (e.g., furniture, monuments, tires, batteries, and accessories)	1 per 600 sq. ft.
SCHOOLS:	
Administrative offices	1 per 300 sq. ft.
Arts and vocational	2 per classroom + 1 per 2 students
Boarding	1 per classroom + 1 per employee
Elementary, middle or jr. high	1.5 per classroom
High	1 per classroom + 1 per 5 students
Stadia, auditoriums, arenas, and Speedways	Spaces equal in number to 33% of the capacity in persons
TELECOMMUNIC. CARRIER FACILITIES: manned on a regular daily basis	1 for each employee regularly at the facility

Theaters	1 per 3 seats, or spaces equal in number to 33% of the capacity in persons
Truck stops	15 per diesel pump
Utility substations	1 per employee
Vehicle body repair	1 per employee + 1 per 600 sq. ft.
Vehicle mechanical repair	1 per employee + 1 per 600 sq. ft.
Vehicle sales and rentals	1 per 500 sq. ft. of enclosed sales or rental area + 1 per 3000 sq. ft. of outdoor sales or rental area
Warehouse, Storage, and Wholesale establishments	1 per 1000 sq. ft.
Zoo	1 per 2,000 sq. ft. of lot area

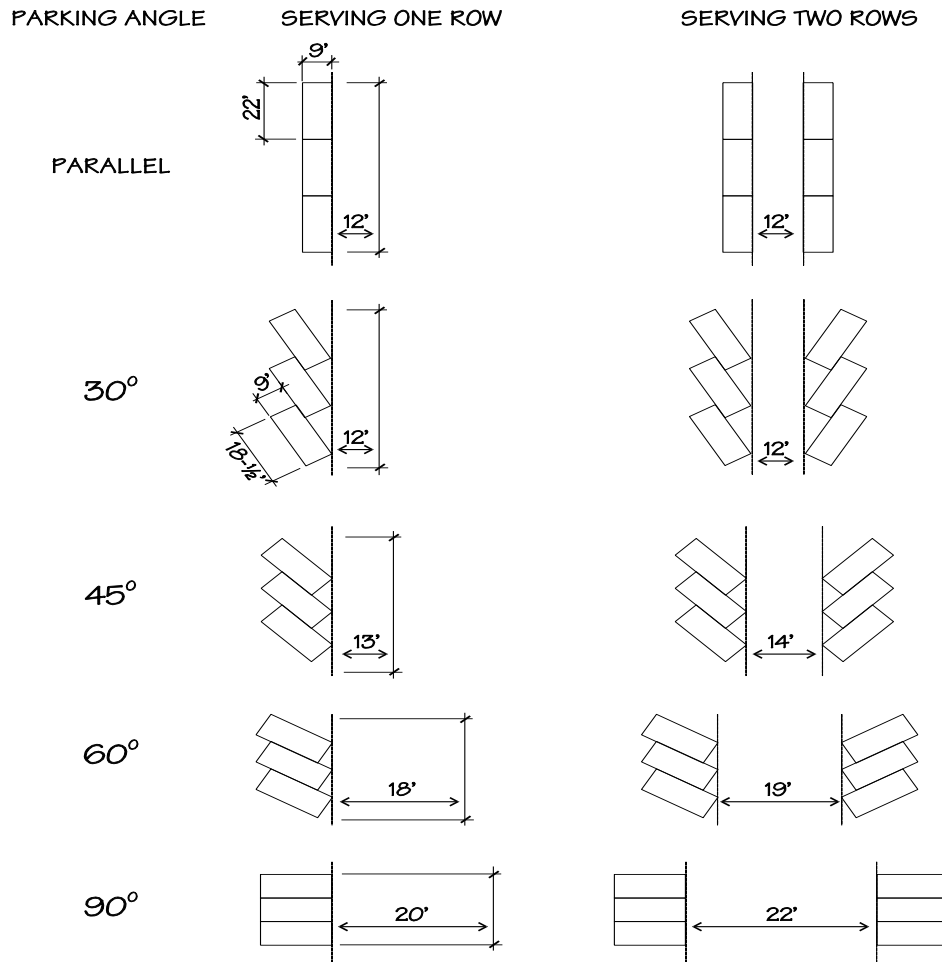
(C)

Size of Required Parking Spaces and Aisles.

- (1) Each required parking space shall cover a rectangle at least **nine (9) feet** wide and **eighteen and one-half (18 ½) feet** long, as illustrated in **Figure 7-1**. For parallel parking, the length of the parking space shall be increased to **twenty-two (22) feet**.
- (2) Each required parking space shall have direct and unrestricted access to an aisle. The minimum width of said aisle is set out in **Figure 7-1**.
- (3) All off-street parking spaces within paved parking lots shall be properly marked by a **four (4) inch** wide painted stripe. All such striping shall be clearly visible at all times. For non-paved parking lots, spaces shall be clearly indicated by means that may include wheel stops, markers, or cones.
- (4) The vertical clearance of each enclosed off-street parking space shall be a minimum of **seven (7) feet**.

Figure 7-1: Required Parking Aisle Widths

Note: Parking lanes for Trucks should be 60 feet in width (so as not to jack-knife). Parking spaces for trucks should be 75 feet by 12 feet.



(D) **Maintenance.** All parking areas and loading areas shall be kept in a clean, dust-free, and weed-free condition at all times.

(E) **Surface Materials.**

(1) **Paved Parking Surfaces.** All required parking spaces and access aisles for any development not exempted by Subsection (E)(2) shall be paved with a hard, all-weather material such as asphalt, concrete, paver block/turf block, brick, or stone. All handicapped parking spaces shall be paved in this manner, regardless of its location or type of use. All required parking spaces and access aisles for any development in the remaining areas of the City that is not exempted by Subsection (E)(2) shall be graded and surfaced with a durable material that will provide protection against potholes, erosion, and dust.

(2) **Non-paved Parking Surfaces.** The following types of development do not need to provide paved parking: agricultural uses, single family dwellings, and two-family dwellings, approved temporary uses as provided in **Section 40-7-3 ("Temporary Uses")**, and overflow parking.

(F) **Spaces For The Handicapped.**

- (1) Except for single family dwellings, the number of spaces required under the provisions of Subsection (B) above shall include the following requirements for parking spaces for handicapped persons in compliance with standards established by the State of Illinois.

**Table 7-5
HANDICAPPED PARKING REQUIREMENTS**

Total Number of Required Off-Street Parking Spaces	Total Number of Spaces Required For Handicapped
1-20	1
21-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of total number
1001+	20+1 for each 100 over 1,000

- (2) Off-street parking spaces for the handicapped shall be designed as follows:
- (a) All spaces for the handicapped shall have access to a curb ramp or curb cut when necessary to allow access to the building served, shall be located so that users will not be compelled to wheel behind parked vehicles, and shall be located the shortest possible distance between the parking area and the entrance to the principal building it serves.
 - (b) The total number of accessible parking spaces may be distributed among parking lots, if greater accessibility is achieved in consideration of such factors as anticipated usage, number, and location of entrances and level of parking areas.
 - (c) Each parking space for the handicapped shall be at least **sixteen (16) feet** wide including an **eight (8) foot** wide access aisle, and adjacent parking spaces shall not share a common access aisle. All access aisles shall blend to a common level with an accessible route and shall be diagonally striped.
 - (d) Parallel parking spaces for the handicapped shall be located either at the beginning or end of a block, or adjacent to alley entrances. Curbs adjacent to such spaces shall be of a height which will not interfere with the opening and closing of motor vehicle doors.
 - (e) No accessible parking spaces shall be required if only attendant or valet parking is provided and is available at all times that the facility is open for public use. If accessible at-grade parking is available, at least **one (1) space** for self-parking of a vehicle with sensitive specialized control devices shall be provided.
 - (f) Each parking space for the handicapped shall be equipped with a sign which complies with **625 ILCS 5/11-301 et seq.**, as amended, and shall meet the requirements of Sign R 7-8, U.S.

Department of Transportation Standard and the Illinois Department of Transportation. Signs shall bear the internationally accepted wheelchair symbol and shall be vertically mounted on a post or a wall at the front center of the parking space, no more than **five (5) feet** horizontally from the front of the parking space and set a minimum of **four (4) feet** from finished grade to the bottom of the sign.

(G)

Location of Required Parking.

- (1) Required off-street parking spaces accessory to residential dwellings shall be located on the same lot as the use served, or on an immediately adjoining lot in the same ownership.
- (2) Required off-street parking spaces accessory to nonresidential uses shall be located within **five hundred (500) feet** of the use served, except for spaces accessory to overnight accommodations, which shall be within **three hundred (300) feet** of the use served. Such parking spaces shall be located on the same side of the street as the use they serve.
- (3) No parking spaces accessory to a use in a nonresidential district may be located in a residential district. In order to utilize a parcel in a residential district for nonresidential parking, it must be rezoned to the nonresidential district in accordance with the provisions of **Section 40-5-4 ("Text and Map Amendments")**.
- (4) Where these regulations allow shared parking between uses on different lots (see Subsection H below), all such off-street parking areas shall be located no more than **five hundred (500) feet** from, and on the same side of the street as, the use they are intended to serve.
- (5) No more than **four (4) automobiles** in total which are parked accessory to a dwelling unit may be parked outside on the same lot as the dwelling, or on an adjacent property under the same ownership, for a period of more than **seventy-two (72) continuous hours**.
- (6) Passenger automobiles may be parked anywhere on the lot except for the front setback where they may be parked on the driveway or on an all-weather surface **nine (9) feet** wide, adjacent and parallel to the driveway.
- (7) Except as otherwise provided herein and in **Section 40-7-2 ("Home Occupations")**, no commercial vehicle (truck) having either a gross vehicle weight in excess of **eight thousand (8,000) pounds** (including vehicle or maximum load) or which exceeds **twenty-one (21) feet** in length, **eight (8) feet** in width or **nine (9) feet** in height, and no large non-motorized part of such vehicle (e.g., semi-trailer), may be parked accessory to a residence. However, commercial vehicles may be parked for a reasonable period of time necessary to pick up or deliver property, or necessary to install or assemble such delivered property or to prepare such property for loading and removal.
- (8) No parking may be located on a vacant lot unless the lot is under the same ownership as the principal use and is adjacent to the use or meets the requirements of (G)(2-4) of this Section.

(H)

Shared Parking. Except as otherwise provided herein and in Subsection (F)(2) below, in order to reduce the total number of parking spaces which would otherwise be required according to Subsection (B) above, joint use of up to **fifty percent (50%)** of required parking spaces may be permitted for **two (2)** or more uses located on the same or adjacent parcels. In order to qualify for a joint use reduction, the owner of the parking lot and the owner(s) of adjacent uses must apply for a variance in accordance with the provisions of **Sections 40-5-5 ("Variances")** and demonstrate that the shared parking will not create a parking shortage during peak hours.

(I)

Reserved.

(J) **Parking Barriers.** Barriers, such as curbs, walls, or fences, shall be located along the perimeter of parking lots, garages, and vehicle storage areas, except at entrances and exits. These parking barriers shall be designed and located to prevent parked vehicles from extending beyond property lines and from hanging over any sidewalk, other pedestrian path, right-of-way, or access easement.

(K) **Drive-Through Service Windows.** Any establishment providing drive-through service shall provide **three (3)** stacking spaces per window. These spaces shall be in addition to any other parking requirements set forth for similar establishments without drive-through service windows. Any overflow that may result from such stacking lanes shall be contained on the same parcel and shall not spill over onto adjacent properties or any roadway.

(L) **Overnight Accommodations Located in Residential Districts.**

- (1) Guest parking shall not be located in any road setback, or on a driveway or in a garage that also serves as parking for the operator.
- (2) Guest parking shall not be located closer than **five (5) feet** to the side and rear lot lines.
- (3) Any off-street parking shall be screened so that automobile headlights do not cast light onto any adjacent residential lot.
- (4) A solid fence shall be provided around the guest parking area, as well as areas serving as an entrance and exit path, in order to shield automobile lights from neighboring residences. If the solid fence will be in a road setback, the fence shall be no taller than **two and one-half (2 ½) feet** in height.

(M) **Communication Support Structures.** **One (1) parking space** per employee on the largest shift shall be provided for all non-automated communication support structures. If the communication support structure is fully automated, only **one (1) space** need be provided for maintenance workers.

(N) **Bicycle Parking.** All nonresidential uses containing **ten (10)** or more automobile parking spaces shall provide bicycle parking facilities at the rate of **three (3)** bicycle parking spaces for the first **thirty (30)** automobile parking spaces provided and **one (1)** additional bicycle parking space for each **ten (10)** additional automobile parking spaces provided, up to a maximum of **thirty (30)** bicycle parking spaces. Bicycle racks shall be installed to support the frame of the bicycle (i.e., not just the wheel), shall be located within **fifty (50) feet** of the entrance to the principal building they serve, and shall be separated from the vehicle parking area.

(O) **Number, Size and Location of Loading Spaces.** The standards provided in this Subsection are intended to provide an adequate size, number and design of loading spaces to serve the use proposed as well as avoid causing a nuisance for surrounding uses.

- (1) Any loading space and any area required for maneuvering a vehicle into and out of the loading space shall be located entirely on the same lot as the use it serves. The unenclosed loading space shall not be located on any public right-of-way or other lot, and shall be oriented away from the street fronting the lot.
- (2) No loading space for vehicles over **two (2) tons** capacity shall be closer than **fifty (50) feet** to any residential district, unless it is completely enclosed by either building walls or a uniformly painted solid fence or wall which is not less than **six (6) feet** in height.
- (3) No loading space or dock may be located within the required front setback. Completely enclosed loading spaces may face a public street, provided the garage door is kept closed at all times, except to permit the entry and exit of vehicles, and during loading and unloading operations. Vehicles waiting for loading or unloading shall not park or be stored within the required front setback.
- (4) Off-street loading spaces may be permitted obstructions in rear setbacks, so long as they are not closer than **fifty (50) feet** from the nearest building, structure, or adjacent lot.

- (5) Unless otherwise provided by these regulations, a required loading space shall be at least **twelve (12) feet** in width by at least **thirty-five (35) feet** in length if a short berth, and at least **twelve (12) feet** in width by at least **fifty (50) feet** in length if a long berth, exclusive of aisles and maneuvering space, and shall have a vertical clearance of at least **fifteen (15) feet**.
- (6) Loading spaces shall be provided on the basis of the floor area of the establishments they serve, as indicated in **Table 7-6**.

**Table 7-6.
SCHEDULE OF LOADING REQUIREMENTS**

FLOOR AREA OF ESTABLISHMENT (Sq. Ft.)	REQUIRED NUMBER OF LOADING SPACES	MINIMUM SIZE (Ft.)	MINIMUM CLEARANCE (Ft.)
0-10,000	1	12x35	15
10,001-25,000	2	12x35	15
25,001-40,000	3	12x50	15
40,001-100,000	4	12x50	15
over 100,000	5*	12x50	15

* plus one additional space for every 50,000 square feet of floor area over 150,000.

- (7) In the event of a recessed or sunken loading berth, adequate drainage of stormwater shall be provided so that water does not pond in the area for more than **twenty-four (24) hours** following the end of a storm.
 - (8) No loading spaces are required for telecommunications carrier facilities.
- (P) **Configuration of Off-Street Parking and Loading Ingress and Egress.**
- (1) Ingress and egress to and from off-street parking and loading spaces shall be provided by means of clearly limited and defined entrance and exit drives which lead from public rights-of-way to clearly limited and defined maneuvering lanes which in turn provide access to individual off-street parking or loading spaces.
 - (2) Layout configurations which require backing directly onto a street or a parking or loading space are prohibited.
 - (3) On City, County or State highways, the number of access points shall be limited to **one (1)**, unless the appropriate road authority determines that site access would be improved by additional access points. The minimum space between access drives shall be based on roadway speed and shall be determined by the appropriate road authority.
 - (4) Wherever practicable, access drives shall be shared by several uses. The owners of such uses shall be jointly responsible for the maintenance and landscaping of the drive.
- (Q) **Recreational Vehicle Parking.**
- (1) In the A-1 or A-2 District and not in a platted subdivision, recreational vehicles may be parked or stored outside accessory to a residence provided the district's front yard setback is met and any recreational vehicle is parked or stored at least **three (3) feet** from a side and rear property line.
 - (2) In a platted subdivision, regardless of the zoning classification, or on residentially zoned parcels, no more than **two (2)** recreational vehicles may be parked or stored outside accessory to a residence. In addition, the following regulations shall apply:
 - (a) If parked or stored in a driveway in a front yard, recreational vehicles may be parked no longer than **forty (40) days** in a calendar year.

- (b) If not parked or stored in a driveway in a front yard, recreational vehicles shall be parked or stored in a side or rear yard behind the building line and shall be a minimum of **three (3) feet** from a side or rear property line.
- (3) Recreational vehicles occupied for dwelling purposes shall be located only in a recreational park, unless the occupant is the owner or tenant of the parcel, or a bona fide guest of the parcel owner or tenant. Unless the recreational vehicle is parked or stored in a recreational vehicle park, the recreational vehicle may be occupied for no more than **forty (40) days** in a calendar year.

40-7-9 OVERNIGHT ACCOMMODATIONS.

(A) **Purpose.** This Section is intended to apply to all overnight accommodations in the City, regardless of whether they are considered a "bed and breakfast establishment," a "hotel," a "motel," a "boarding house," a "rooming house," or any other type of commercial establishment where rooms are rented at a daily rate to the general public.

(B) **Length of Stay.** Guests at overnight accommodations shall stay no more than the time limit specified by these regulations for each district.

(C) **Number of Rooms.** The number of rooms available for rent shall be regulated as provided in the text of each district.

(D) **Food Service.** Overnight accommodations that serve food shall be subject to all requirements of the Peoria City/County Health Department.

(E) **Record of Guests.** The operator shall keep a log identifying the name, address, and telephone number of all guests.

(F) **Certificate of Occupancy.** Overnight accommodations shall not begin operation until a Certificate of Occupancy has been obtained from the Zoning Administrator in accordance with the provisions of this Code.

40-7-10 RESERVED.

40-7-11 MOBILE HOME PARKS.

(A) **General.** The requirements of this Section shall apply to mobile home parks wherever they are permitted as a special use under these regulations. In addition, mobile home parks shall comply with regulations established by the Illinois Department of Public Health and the City/County Health Department.

(B) **Application.** The application for a proposed mobile home park which the applicant is required to submit for special use approval under **Section 40-5-3 ("Special Use Permits")** shall contain the following:

- (1) Name and address of applicant and owner;
- (2) Location map showing nearest highway and intersection of highways;
- (3) Boundary survey of entire tract of land on which proposed park is to be located;
- (4) If less than the whole tract is to be used for the park, the proposed use of the remaining land with the boundary of the park shown;
- (5) The type of fire protection and fire-fighting facilities, public or private, which are available to the park;
- (6) An affidavit of the applicant as to the truth of the matters set forth in the application and stating also that the plans submitted are duplicates of those submitted to the Illinois Department of Public Health; and
- (7) Such other information as may be required by the Zoning Administrator to evaluate the application for the proposed mobile home park.

(C) **Site Plan.** The applicant shall also submit a detailed site plan which shall be drawn at a scale of not less than **1"=50'** which shows the following:

- (1) The date on which the site plan was prepared;
- (2) An arrow indicating north;
- (3) The location and size of all mobile home sites. Each site shall be properly numbered;
- (4) The number of total acres, the number of acres for recreation, the number of units, and the number of units per gross acre;
- (5) An individual mobile home site plan;
- (6) The width and location of roadways and walkways including ingress and egress locations;
- (7) Stormwater runoff shown on a separate plot plan and containing complete information regarding the location and size of storm sewers as well as compliance with applicable City stormwater regulations;
- (8) Contour lines at **two (2) foot** intervals of the existing and proposed topography;
- (9) The location and size of proposed service buildings, including floor plan and elevations and any other structures, including pools, cabanas or other accessory buildings to be located within the park;
- (10) The proposed method of lighting the park;
- (11) The proposed landscaping;
- (12) The location and size of parking areas and extra vehicle storage;
- (13) The location and size of recreation areas;
- (14) The location and size of existing and proposed wells or other water supply, and sewage and garbage disposal, including a sewage treatment plant, if required; and
- (15) The seal of the registered land surveyor or professional engineer who prepared the plans.

(D) **Review and Evaluation.** All applications for mobile home parks shall be approved in accordance with the special use procedures contained in **Section 40-5-3 ("Special Use Permits")** of these regulations. In evaluating the proposed mobile home park, in addition to the information contained in the application and the site plan, the Zoning Administrator, ZBA, and City Council shall consider the following:

- (1) The availability of public water supply and public sanitary sewer;
- (2) The availability of other community facilities that would service the proposed park, including schools, shopping facilities, employment centers, and police and fire protection;
- (3) Freedom of the proposed site from objectionable smoke, noxious and toxic fumes, odors, vapors, gases or matter, unusual noise, possibility of subsidence, probability of flooding, erosion or other physical hazards, and probability of insect or rodent infestation;
- (4) Suitability of the proposed site for a mobile home park in light of environmental conditions such as soil, groundwater level, rock formations, and topography;
- (5) Conformity with all applicable regulations and standards of these regulations.

(E) **Effect of Approval.**

- (1) The plan that is approved by the City Council shall be the plan built by the developer. Any changes in the approved plan shall be studied, re-evaluated, and not allowed unless specifically approved by the City Council in accordance with the special use approval procedures used to approve the original plan.
- (2) The developer shall start construction of the mobile home park within **one hundred twenty (120) days** of final approval of the park by either the City Council or the appropriate State agencies, or the permit

shall be declared null and void. Any extension of this time limit shall be approved by the City Council.

- (3) The mobile home park shall have at least **thirty (30)** mobile home spaces available at first occupancy and at least **one hundred (100)** mobile home spaces available, or the maximum approved units whichever is less, within **one (1) year** of final approval by the City Council.

(F) **Certificate of Occupancy Required.**

- (1) A Certificate of Occupancy shall be obtained at each phase of the development approved by the City Council.
- (2) In addition, prior to situating any mobile home within the park, a Certificate of Occupancy shall be obtained for each mobile home unit that is to be located within a mobile home park. No Certificate of Occupancy shall be issued unless all of the standards of this Section have been met.
- (3) No other type of nonpermanent shelter or other vehicle designed or used for sleeping purposes, other than an independent mobile home, shall be permitted for occupancy at any time in a mobile home park.

(G) **Minimum Park Site; Maximum Density.**

- (1) The minimum site for a mobile home park shall be **eight (8) acres**.
- (2) The maximum density for a mobile home park shall be **eight (8)** mobile home spaces per gross acre.

(H) **Area and Width of Individual Mobile Home Spaces.**

- (1) Spaces reserved for individual mobile home units shall be a minimum of **four thousand six hundred (4,600) square feet** for a single-wide mobile home and **five thousand (5,000) square feet** for a double-wide mobile home.
- (2) Spaces reserved for individual mobile home units shall be at least **forty (40) feet** in width for a single-wide and **fifty (50) feet** in width for a double-wide.

(I) **Setback, Separation, and Identification Requirements.**

- (1) Mobile home units shall be set back a minimum of **twenty-five (25) feet** to a street, except where the zoning district requires a greater setback, and at least **fifteen (15) feet** from other park boundaries.
- (2) Mobile homes shall be separated by a minimum distance of **ten (10) feet** from another mobile home or from an accessory structure, and shall be at least **five (5) feet** from a side or rear lot line.
- (3) All spaces for individual mobile homes shall be clearly defined with permanent corner markers. The number assigned a space shall be posted on each space in a conspicuous place.

(J) **Accessory Structures.** No accessory structures shall be permitted at individual mobile home sites unless approved as part of the special use for the mobile home park. However, the park may provide for such structures (e.g., for recreational or storage purposes) at a common area.

(K) **Design and Construction Standards For Streets and Driveways.**

- (1) Each individual mobile home site shall abut or face on an interior street which shall have access to a public street.
- (2) All streets within the mobile home park shall have a minimum width of **thirty (30) feet** and all driveways shall have a minimum width of **nine (9) feet**.
- (3) All streets and driveways within the mobile home park shall be constructed so as to meet all specifications set forth in the City's subdivision code.
- (4) Roadways and central parking areas shall be maintained in a reasonably serviceable condition free from dust.

- (5) All driveways shall be graded to drain and be free of standing water. Culverts, subdrains and inlets of capacity shall be installed that are adequate to remove storm water.

(L)

Parking and Walkways.

- (1) In addition to the provisions of **Section 40-7-8 ("Parking and Loading Requirements")** of these regulations, each mobile home park shall provide **one (1)** additional automobile parking space for each **two (2)** mobile home sites located in the mobile home park.
- (2) Such additional automobile parking spaces shall be located on the individual mobile home site or in conveniently placed parking lots which are not part of any roadway.

(M)

Utilities and Services.

- (1) All mobile home parks shall be served by public water and sewer that meets the requirements of applicable agencies, such as the Illinois Department of Public Health, the City/County Health Department, and the Illinois Environmental Protection Agency.
- (2) Fire extinguishers of a type approved by the local fire department, fire protection district, or state fire marshal shall be placed at each end of each mobile home in a mobile home park. Each fire extinguisher shall be periodically examined and kept in a condition for use at all times.
- (3) Fire protection, including hydrants, shall be installed and maintained to meet or exceed the minimum design standards of the National Fire Protection Association (NFPA) and/or the International Fire Service Training Association (IFSTA) as may be required by the fire protection district. The Fire Protection District shall inspect the hydrants and other fire protection equipment during their installation.
- (4) Each mobile home park shall be provided with dusk to dawn lighting of **one hundred (100) watt** lamps, with lights no more than **one hundred (100) feet** apart and located no more than **fifteen (15) feet** above the ground.
- (5) All electrical service shall be placed underground. Each lot shall be provided with at least **one (1)** service outlet which is weatherproof and properly grounded. Electrical outlets shall be installed in compliance with all state and local electrical regulations.
- (6) All other utility lines (including gas, telephone, and television) provided in the mobile home park shall be in compliance with all state regulations and shall be placed underground.

(N)

Recreational Facilities.

- (1) All mobile home parks shall have a minimum of **eight percent (8%)** of the total land area set aside as park and recreation land. Recreation areas may include space for community buildings and community use facilities, such as indoor recreation areas, swimming pools, and hobby shops.
- (2) Recreation areas shall be centrally located and shall provide facilities for both adults and children.
- (3) Recreation areas shall not include land designated for parking lots and or mobile home sites.

(O)

Fences, Screening and Skirts.

- (1) All fences shall comply with the provisions of **Section 40-7-5 ("Fences")** of these regulations.
- (2) All plantings shall meet the specifications set forth in **Section 40-7-7 ("Landscaping and Bufferyards")** of these regulations.
- (3) Skirting shall be constructed of fire-resistant material to keep areas under each mobile home from the public view and to prevent the passage of rodents while offering adequate ventilation. Skirting shall

reach from the bottom edge of the mobile home to the ground directly below and shall completely surround the mobile home.

- (4) Skirting shall be placed around each mobile home by its owner within **sixty (60) days** from the date upon which the mobile home is placed upon the site.

(P) **Mobile Home Parks To Be Located In An "A" Zone Of The Floodplain.** All mobile home parks to be located in an "A" zone of a floodplain shall file with the appropriate disaster preparedness authorities an evacuation plan indicating vehicular access and escape routes, including mobile home hauler routes, and shall comply with all pertinent floodplain regulations that affect individual mobile homes.

40-7-12 RECREATIONAL VEHICLE PARKS.

(A) **General.** The requirements of this Section shall apply to recreational vehicle parks wherever they are permitted as a special use under these regulations. Special use approval shall be obtained pursuant to the provisions of **Section 40-5-3 ("Special Use Permits")** of these regulations.

(B) **Site Plan.**

- (1) The applicant shall submit a site plan of the recreational vehicle park, not less than **1"=50'**, which shows:
 - (a) Existing drainage pattern and topography;
 - (b) Location of existing and proposed wells and sewage disposal systems;
 - (c) Location of individual recreation vehicle sites and utility hookups, such as water, electricity, and sewage;
 - (d) Location of park facilities (i.e., office, pool, playground area, etc.); and
 - (e) Traffic pattern, including ingress and egress locations;
- (2) The developer shall be held to the final form of the site plan, as approved.

(C) **Area of Individual Site.** Each recreational vehicle site shall be **two thousand five hundred (2,500) square feet** or more in area, unless passenger vehicles are to be parked in a separate, common off-street parking area. In that case, the area for the individual recreational vehicle site may be reduced by **three hundred (300) square feet**.

(D) **Density.** Overall density of the park shall be **ten (10)** recreational vehicle spaces per acre, or less.

(E) **Setbacks and Separation Requirements.**

- (1) Each recreational vehicle space and facility shall be separated by at least **ten (10) feet** from the nearest adjacent recreational vehicle space or facility. For perimeter setbacks, where applicable, each recreational vehicle space and facility shall also comply with the setback requirements of the district in which it is located.
- (2) No recreational vehicle shall be located closer than **ten (10) feet** to any interior drive, or adjacent recreational vehicle or building.

(F) **Buffer Strips.** Where a recreational vehicle park abuts or adjoins any other district, in addition to the buffer yard provisions set forth in **Section 40-7-7 ("Landscaping and Bufferyards")**, a buffer strip not less than **twenty (20) feet** shall be provided and shall:

- (1) be located on the side of such lot abutting any other district;
- (2) be parallel to the lot line of such lot facing any other district;
- (3) be provided with a screen planting at least **six (6) feet** in height, except where such buffer strip parallels the front lot line of the recreational vehicle park, in which case such screen planting shall not be required; and

(4) shall not be used for parking.

(G) **Accessory Structures.** No accessory structures shall be permitted at individual recreational vehicle sites. However, the park may provide for such structures (e.g., for recreational or storage purposes) at a common area.

(H) **Water and Sewage Systems.** Water and sewage systems for a recreational vehicle park shall require approval by the applicable agency.

(I) **Permanent Residence.** A recreational vehicle park shall be reserved for patrons who have a permanent place of residence outside of the park.

40-7-13 MINERAL EXTRATION FACILITIES.

(A) **General.** The requirements of this Section shall apply to mineral extraction facilities wherever they are permitted as a special use under these regulations.

(B) **Application.** The application for mineral extraction facilities which the applicant is required to submit for special use approval under **Section 40-5-3 ("Special Use Permits")** shall contain the following plans and permits. Each plan shall be drawn to scale not less than **1"=50'** (or **1"=100'** if the site is over **fifty (50) acres**) and shall show north point, date, graphic scale, and section lines.

- (1) Predevelopment plan, including the following information:
 - (a) Name and address of all owners of the site proposed for development.
 - (b) A written legal description of the site proposed for development.
 - (c) A map showing:
 1. the location of all property lines, existing roads, easements, utilities, and other significant features;
 2. the existing conditions on the tract, including contour lines (at least **five (5) foot** intervals), watercourses, existing drainage facilities, and wooded areas;
 3. the existing buildings and structures with an indication of those which will be retained as part of the development; and
 4. the existing land uses of adjacent tracts.
- (2) Site plan of operations, demonstrating the following:
 - (a) Excavation lines in relation to property lines.
 - (b) Ingress and egress during operation.
 - (c) Proposed buffer strips and plantings.
 - (d) Stockpiles of mineral material and overburden.
- (3) Where overburden will exceed **ten (10) feet** in depth or where the operation will affect more than **ten (10) acres** during a permit year, an operating permit, including any conservation and reclamation plan and requisite bonding, shall be secured as required by the IEPA or the Illinois Department of Mines and Minerals (DoMM), in accordance with the provisions of the Surface-Mined Land Conservation and Reclamation Act, **225 ILCS 715/1, et seq.**
- (4) Where overburden will not exceed **ten (10) feet** in depth and where the operation will not affect more than **ten (10) acres** during a permit year, a reclamation plan shall be submitted to the City, along with bonding for the cost of reclamation.

(C) **Record of Inspection.** Mines shall be inspected by the Illinois Department of Mines and Minerals (DoMM) at least every **three (3) months** pursuant to **225 ILCS 710/9.01**. The operator of the mine shall send a copy of such record of inspection to the Zoning Administrator.

(D) **Restrictions.**

- (1) No mineral extraction operation shall be carried out within **one thousand (1,000) linear feet** of any existing dwelling or within **three hundred (300) feet** of any existing structure (other than a dwelling),

other than those owned by the applicant for the permit, unless written permission is first obtained from the owner of such dwelling unit or structure.

- (2) The stockpiling of overburden shall be permitted within the buffer strips permitted under subsection (C)(1) above. However, a perimeter setback of **one hundred (100) feet** shall be maintained free of equipment, stockpiles, and overburden.

(E) **Structures.** All excavations and stockpiles shall be treated as structures for purposes of these regulations with regard to setback from property lines.

(F) **Vehicle Requirements.**

(1) Trucks entering and leaving a mineral extraction site shall meet the weight requirements of affected roads.

(2) In the event that haulage roads relating to the mineral extraction facility intersect with collector, city, state, or other public roadways, the operator shall be responsible for obtaining a permit from the regulating agency of that particular road and for such other safe traffic control as the City Council may require.

(G) **Fencing.** In addition to the applicable provisions of **Section 40-7-5 ("Fences")** of these regulations, protective fencing shall be required where a mineral extraction facility is adjacent to a residential area.

(H) **Hours of Operation.** Mineral extraction facilities shall only operate between the hours of **7:00 a.m.** to **8:00 p.m.**, unless further restricted by the City Council.

40-7-14 ESSENTIAL PUBLIC SERVICES. The erection, construction, alteration, or maintenance by public utilities of overhead, surface or underground gas, electric, steam, or water, distribution or transmission systems, collection, communication, supply or disposal systems, including mains drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service for the public health, safety, or general welfare, shall be exempt from the regulations of this Ordinance, except for the following:

(A) All installations shall conform to Federal Communications and Federal Aviation Agency rules and regulations, and those of other authorities having jurisdiction.

(B) Landscaping, screening and yard requirements for the buildings and structures must be approved by the Zoning Administrator.

40-7-15 ZONING OF ANNEXED LAND. Land hereafter annexed to, or consolidated with, the City of Elmwood shall be zoned R-1 Low Density Residential unless the petition for annexation is accompanied by a petition for reclassification or a pre-annexation agreement, in which case the regular procedures for amendment petition hearings will be held by the ZBA.

ARTICLE VIII – NONCONFORMITIES

40-8-1 NONCONFORMITIES.

(A) **Purpose, Applicability.** The purpose of this Section is to regulate and limit the continued existence of certain uses and structures established prior to the effective date of these regulations that do not conform to these regulations.

(B) **Nonconforming Uses Located in Structures Adaptable to Permitted Uses.**

- (1) Nonconforming uses, if the structure to which the use is devoted is adaptable to a permitted use in the district in which it is located may continue only in accordance with the provisions of this Section.
- (2) Normal repair and maintenance may be performed to allow the continuation of such nonconforming use. However, the continuation, maintenance, or normal repair shall not extend or expand the nonconforming use and may only include:
 - (a) Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;
 - (b) Maintenance of land areas to protect against health hazards and to promote the safety of surrounding land uses;
 - (c) Repairs which are required to remedy unsafe conditions which cause a threat to public safety; and
 - (d) Maintenance or repair of a sign in a way that does not change the exterior message.
- (3) Such nonconforming use shall not be expanded, nor shall the nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or the occupation of additional lands, unless its nonconforming status is removed pursuant to Subsection (E) ("Termination of Status as a Nonconformity")
- (4) Except as provided in Subsection (E) ("Termination of Status as a Nonconformity"), the nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once the nonconforming use is changed to a conforming use, the nonconforming use shall not be reestablished.
- (5) Where the nonconforming use is discontinued or abandoned for **six (6) consecutive months**, then the use shall not be reestablished or resumed, and any subsequent use of the land or structure shall conform to the requirements of these regulations.
- (6) Where a structure in which the nonconforming use is located is destroyed or damaged (either gradually or suddenly) to **fifty percent (50%)** or more of its assessed value, the use shall not be reestablished or resumed, and the structure may be repaired or restored only for uses which conform to the standards of these regulations for the zoning district in which it is located. Assessed value shall be determined by reference to the official property tax assessment rolls for the year the structure is destroyed or damaged. The extent of damage or destruction shall be determined by the Zoning Administrator by comparing the estimated cost of repairs or restoration with the assessed value. In the event that such damage or destruction occurs suddenly and is less than **fifty percent (50%)** of the cost of reconstructing the entire building or structure, no repairs or construction shall be made unless such restoration is started within **one (1) year** from the date of the partial destruction and is diligently pursued to completion. In the case of

gradual destruction where the damage to the structure does not total more than **fifty percent (50%)** of its assessed value, the reconstruction must commence within **six (6) months** after discovery that the extent of the destruction or damage approached **fifty percent (50%)** of its assessed value and must be diligently pursued to completion.

(C)

Nonconforming Structures.

- (1) If a nonconforming structure is destroyed or damaged (either gradually or suddenly) to **fifty percent (50%)** or more of its assessed value it may be repaired or restored only if the structure conforms to the standards of these regulations for the zoning district in which it is located. Assessed value shall be determined by reference to the official property tax assessment rolls for the year the structure is destroyed or damaged. The extent of damage or destruction shall be determined by the Zoning Administrator by comparing the estimated cost of repairs or restoration with the assessed value.

(D)

Nonconforming Vacant Lots.

- (1) Except as provided below in Subsection (2), a nonconforming vacant lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all limitations and minimum requirements for setbacks, height, open space, and floor area established in these regulations for the zoning district in which the lot is located.
- (2) If **two (2)** or more adjacent and vacant nonconforming lots are in single ownership at any time, and such lots individually have less frontage or area than the minimum requirements of the district in which such lots are located, then such lots shall be considered and treated as a single lot or several lots which meet the minimum requirements of these regulations for the district in which such lots are located.
- (3) Notwithstanding the limitation in Subsection (1), above, a nonconforming vacant lot may be used for a single-family dwelling, provided that:
 - (a) the lot is located in a district in which dwelling units are permitted; and
 - (b) all other development standards are met.

(E)

Termination of Status as Nonconforming.

- (1) Notwithstanding the provisions of Subsection (B) above, a nonconforming use or structure may be deemed to be in conformity with these regulations and may be allowed to continue and to expand as a lawfully existing use or structure, through the issuance of a special use permit in accordance with the provisions of this Subsection.
- (2) To establish a nonconforming use or structure as a lawfully existing use or structure, the owner of the property, or his or her authorized agent, shall apply for a special use permit in accordance with the procedures established in **Section 40-5-5 ("Special Use Permits")** of these regulations.
- (3) A special use permit shall not be issued for the nonconforming use or structure unless it will be compatible with the surrounding area and will be improved according to the following requirements:
 - (a) **Buffers.** A buffer conforming to the standards of **Section 40-7-7 ("Landscaping and Bufferyards")** shall be provided between the nonconforming use or structure and any abutting lot.
 - (b) **Off-Street Parking.** Any off-street parking area located on the lot shall be improved to meet the landscaping standards established in **Section 40-7-7 ("Landscaping and**

Bufferyards") for or the zoning district in which the parking area is located.

(F) **Issuance of Special Use Permit.**

- (1) Upon determining that the nonconforming use or structure satisfies all of the above requirements and that a fee has been paid pursuant to **Section 40-1-4 ("Review Fees")**, the Zoning Administrator shall recommend approval to the Zoning Board of Appeals for that use or structure or for the expansion of that use or structure. The special use permit shall specifically state how the nonconforming use or structure differs from the regulations and standards set forth in these regulations.
- (2) Upon receipt of the special use permit, the use or structure shall no longer be treated as a nonconformity and shall be allowed to continue as a lawfully existing use or structure unless it is abandoned or discontinued for **six (6) months** or unless the structure in which the use is located is destroyed or damaged to **one hundred percent (100%)** of its assessed value. This status as a lawfully existing use shall apply only to the specific use or structure for which the permit is issued and not to any other use or structure that may be located on the lot.
- (3) In no event shall the use or structure be allowed to expand to greater than **fifty percent (50%)** of the floor area or lot area that it occupied on the effective date of these regulations or on the effective date of any amendment to these regulations which rendered the use or structure nonconforming.

(G) **Time Line For Compliance.** Upon discovery by the City, owners and occupants of nonconforming uses or structures shall be notified by certified mail of possible nonconformance with this Section. The owners, occupants, or agents thereof shall apply for a zoning certificate for a nonconforming use within **thirty-five (35) days** after notification of possible noncompliance. Failure to make such an application within **thirty-five (35) days** shall be prima facie evidence that the structure or use of the land is an illegal use and not a nonconforming use. Applications shall include all evidence necessary to show conclusively the existence and the extent of the nonconformity. This evidence shall be in written form and may include photographs and building plans.

(H) **Record of Zoning Certificate for a Nonconforming Use.** The Zoning Administrator shall make and keep a record of all nonconforming buildings, structures and land uses. This record shall include all evidence submitted with the application.

(I) **Zoning Certificate for a Nonconforming Use.** If a nonconforming use is established as a result of the requirements in Subsection (C) or (D) above, then the Zoning Administrator shall issue a Zoning Certificate for a Nonconforming Use. The fee for such service is set forth in **Section 40-1-4** of this Code.

ARTICLE IX – ENFORCEMENT

40-9-1 ENFORCEMENT PROCEDURES. The provisions of these regulations shall be enforced by the Zoning Administrator. In addition to other remedies provided by this Code and other applicable laws, the Zoning Administrator shall, when a violation has been determined to exist:

- (A) Refrain from issuing any subsequent development approvals for the developer until the violation has been corrected;
- (B) Inform the violator that no further work under an existing approval may proceed until the violation has been corrected; and
- (C) Cause a notice to appear to be issued and filed with the Peoria County Circuit Court if efforts to achieve compliance are not successful.

40-9-2 PENALTIES AND COSTS.

(A) **Fine.** The violation of the terms of these regulations is punishable by a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(B) **Action.** In the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or that any building, structure, or land is used in violation of these regulations, the Zoning Administrator, or other proper authority of the City, or any person the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceeding in the circuit court:

- (1) to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of the building, structure, or land;
- (2) to prevent the occupancy of the building, structure, or land;
- (3) to prevent any illegal act, conduct, business, or use in or about the premises; or
- (4) to restrain, correct, or abate the violation.

40-9-3 INTERPRETATION AND CONFLICTS. In interpreting and applying the provision of these regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort, and general welfare. It is not intended by these regulations to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties. However, wherever these regulations impose greater restrictions upon the use of buildings, structures, or land or require more restrictive building lines, then the provisions of these regulations shall control.

ARTICLE X - EFFECTIVE DATE AND SEVERABILITY

40-10-1 EFFECTIVE DATE. This Code shall become effective upon its passage, approval, and publication in the manner provided by law.

40-10-2 SEVERABILITY. If any section, specific provision, or standard of these regulations or any zoning district boundary that now exists or may exist in the future is found by a court to be invalid or inappropriately applied for any reason, the decision of the court shall not affect the validity or application of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.