

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

PREPARED BY:

Illinois Codification Services

"Serving Illinois Since 1970"

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CITY OF NEWTON, ILLINOIS

ORDINANCE NO. 2023-03

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

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

THIS 21st DAY OF FEBRUARY, 2023

**Published in book form by authority of the City Council of the City of
Newton, Jasper County, Illinois this 21st day of February, 2023.**

ORDINANCE NO. 2023-03

AN ORDINANCE ADOPTING A REVISED CODE OF ORDINANCES FOR THE CITY OF NEWTON, JASPER COUNTY, ILLINOIS.

WHEREAS, the City of Newton, Illinois is an Illinois non-home rule municipal corporation pursuant to Article VII, § 8 of the 1970 Illinois Constitution, organized and operating under the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*; and

WHEREAS, the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper and necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper, 65 ILCS 5/1-2-1; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, JASPER COUNTY, ILLINOIS, THAT:

SECTION 1: Amendment. The following exhibit shall be "The Revised Code of Ordinances" of the City of Newton, Jasper County, Illinois" and shall be as follows:

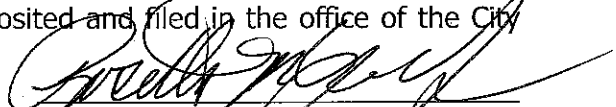
SEE EXHIBIT "A" FOLLOWING

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

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ordinances, code provisions or pertinent portions thereof in effect at the time this ordinance takes effect are hereby repealed.


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

SECTION 4: Passed this 21st day of February, 2023 by the City Council of the City of Newton, Jasper County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.


ROSETTA M. YORK, CITY CLERK
NEWTON, ILLINOIS

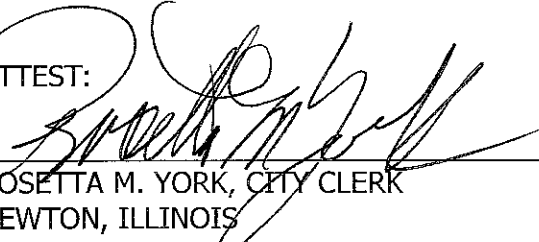
ALDERMAN	AYE	NAY	ABSTAIN	NOT PRESENT
Gayle Glumac	✓			
Kaleb Wright	✓			
Larry Brooks				
R. J. Lindemann				
Eric Blake	✓			
Marlene Harris	✓			
Mayor Joshua Kuhl				

Approved by the Mayor of the City of Newton, Jasper County, Illinois, this 21st day of February, 2023.

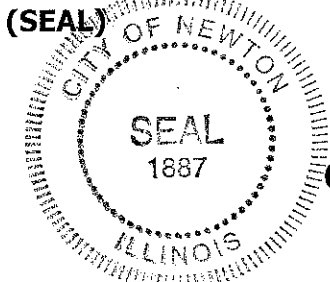


JOSHUA J. KUHL, MAYOR
NEWTON, ILLINOIS

ATTEST:



ROSETTA M. YORK, CITY CLERK
NEWTON, ILLINOIS



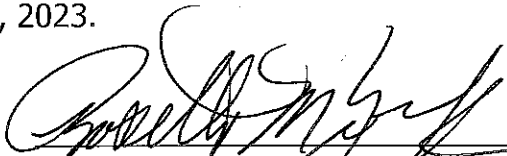
CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF JASPER)
CITY OF NEWTON)

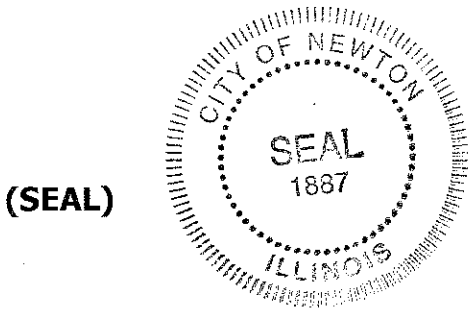
ss. CITY CLERK'S OFFICE

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

In witness whereof, I have set and affixed the Corporate Seal of the City of Newton, Illinois, this 21ST day of FEBUARY, 2023.



ROSETTA M. YORK, CITY CLERK
NEWTON, ILLINOIS



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92-4	Administration: Salaries	03/17/92	Sec. 1-3-1
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92-8	Administration: Appointments	06/30/92	Chapter 1
92-13	Utilities: Deposit	11/03/92	Ch. 38; Art. II
93-1	Motor Vehicle: Penalties	01/19/93	Chapter 24
93-2	Motor Vehicle: Parking	02/02/93	Chapter 24
93-8	Administration: Committees	05/06/93	Sec. 1-2-5
93-9	Motor Vehicles: Stops	07/06/93	Ch. 24-3-3
93-11	Motor Vehicles: Stops	07/20/93	Ch. 24-3-3
93-12	Mobile Homes	08/03/93	Chapter 23
93-14	Employee Code	08/03/93	Chapter 12
93-15	Motor Vehicles: Parking	08/03/93	Ch. 24-6-3
93-16	Motor Vehicles: Parking	09/07/93	Ch. 24-3-2
93-17	Motor Vehicles: Speed Limit	09/07/93	Ch. 24-4-2(F)
93-18	Utilities: Water Rates	09/21/93	Ch. 38-4-2
93-19	Utilities: Sewer Rates	10/05/93	Ch. 38-4-33
93-20	Liquor: Fee	10/05/93	Chapter 21
93-21	Liquor: Fee	10/05/93	Chapter 21
93-22	Liquor: Hours	10/05/93	Chapter 21
93-23	Nuisances	11/02/93	Chapter 25
93-25	Mobile Home: Licenses	12/21/93	Chapter 23
93-26	Streets: Sewer Discharge	01/18/94	Chapter 33
94-27	Highway Encroachment	01/18/94	Special Legislation
94-28	Motor Vehicle: Parking	01/18/94	Ch. 24-6-3
94-31	Utilities: Water Meter	02/01/94	Ch. 38; Art. II
94-32	Utilities: Sewer Regulations	02/15/94	Ch. 38; Art. V
94-33	Motor Vehicle: Parking	02/15/94	Ch. 24-6-3
94-34	Animals: Penalty	03/01/94	Sec. 1-1-20
94-35	Nuisances: Penalty	03/01/94	Sec. 1-1-20
94-36	Employees: Vacation	03/01/94	Chapter 12
94-37	Utilities: Rate	03/01/94	Ch. 38-4-11
94-38	Subdivision Code	03/15/94	Chapter 34
94-38A	Capital Development Fund	05/17/94	Chapter 10
94-39	Liquor: Classes	06/21/94	Ch. 21-2-6
94-40	Cable Television	06/21/94	Chapter 8
94-41	Liquor: Sales	06/21/94	Chapter 21
94-43	Liquor: License	07/05/94	Ch. 21-2-6

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
95-1	Administration: Salaries	02/07/95	Sec. 1-3-1
95-3	Utilities: Well Set-Back	05/02/95	Ch. 38; Art. VI
95-4	Street Name: Neese	05/16/95	Special Legislation
95-5	Offenses: Roller Skating	05/16/95	Chapter 27
95-7	Mobile Homes	06/06/95	Chapter 23
95-9	Nuisance	07/05/95	Chapter 25
95-11	Appropriation	07/18/95	Special Legislation
95-12	Offenses: Penalty	07/05/95	Chapter 27
95-13	Subdivision Code	07/18/95	Chapter 34
95-14	Mobile Homes: Lots	07/18/95	Chapter 23
95-15	Motor Vehicle: Parking	07/18/95	Ch. 24-6-3
95-16	Utilities: Sewage	09/19/95	Chapter 38
95-18	Motor Vehicle: One-Way Street	10/03/95	Ch. 24-3-2
95-19	Motor Vehicle: One-Way Alley	11/21/95	Ch. 24-3-2
95-20	Subdivision: Storm Water	12/05/95	Chapter 34
96-1	Liquor: Hours	01/16/96	Ch. 21-3-1
96-2	Electric: Rates	02/06/96	Chapter 11
96-3	Administration: Penalty	02/20/96	Sec. 1-1-20
96-5	Revolving Loan Fund	02/20/96	Special Legislation
96-6	Employees	02/20/96	Chapter 11
96-7	Motor Vehicle: Four-Way Stop	04/02/96	Ch. 24-3-3
96-8	Liquor: Licenses	05/07/96	Ch. 21-2-6
96-9	Prevailing Wages	06/04/96	Special Legislation
96-10	Personnel Code	06/04/96	Chapter 12
96-11	Personnel Code	06/18/96	Chapter 12
96-12	Appropriation	07/17/96	Special Legislation
96-13	Vacate Plat: Southtown Est.	08/06/96	Special Legislation
96-14	Southtown Est. Revised Plat	08/06/96	Special Legislation
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96-16	Cemetery	08/20/96	Chapter 9
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96-18	Utilities: Water Lines	10/01/96	Ch. 38; Art. III
96-19	Utilities: Water Lines	10/15/96	Ch. 38; Art. III
96-20	Tax Levy	11/05/96	Special Legislation
96-21	Utilities: Well-Setback	12/17/96	Chapter 38
96-22	Annexation: Imperial Acres	12/17/96	Special Legislation
96-23	Annexation	12/17/96	Special Legislation
96-24	Subdivision Code	12/17/96	Chapter 34

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
97-1	Personnel Code	01/21/97	Chapter 12
97-2	Closing Portion of Ste. Marie	02/04/97	Special Legislation
97-3	Business Code: Raffle	02/04/97	Chapter 7
97-4	Subdivision Code	02/18/97	Chapter 34
97-5	Vacate Alley: Townsend-Spencer Subd.	04/01/97	Special Legislation
97-6	Special Census	04/15/97	Special Legislation
97-7	Vacate Alley: Litzelman's Addition	05/20/97	Special Legislation
97-10	Cable Television	07/01/97	Chapter 8
97-11	Utility: Rates	07/01/97	Ch. 38; Art. IV
97-12	I.E.P.A. Loan	08/19/97	Special Legislation
97-13	Economic Development	1997	Special Legislation
97-14	Offenses: Public Nudity	09/30/97	Chapter 27
97-15	Utilities: Imperial Subdivision	11/04/97	Chapter 38
97-16	Not Used		
97-17	Tax Levy	1997	Special Legislation
97-18	Motor Vehicle: Load Limits	11/18/97	Chapter 24
98-1	Offenses: Throwing Objects	01/06/98	Sec. 27-5-7(C)
98-2	Vacating Alley	01/20/98	Special Legislation
98-3	Utilities: Sewer Manhole	02/05/98	Sec. 38-5-46
98-4	Vacating Alley	03/03/98	Special Legislation
98-5	Motor Vehicles: Truck Route	03/17/98	Sec. 24-8-14
98-6	Liquor: Licenses	05/05/98	Sec. 21-2-7(F)
98-7	Prevailing Wage	1998	Special Legislation
98-8	Appropriation	1998	Special Legislation
98-9	Vacating Alley: Townsend Subdivision	07/07/998	Special Legislation
98-10	Streets: Culverts	06/16/98	Sec. 33-1-13(D)
98-11	Subdivision: Culverts	08/04/98	Sec. 34-1-3(A)
98-12	Employee Code: Substance Abuse	09/01/98	Sec. 12-1-34
98-13	Electric System: Rates	09/15/98	Sec. 11-1-1(A)
98-14	Utilities: Rates	09/15/98	Secs. 38-1-3; 38-1-4; 38-1-5
98-15	Motor Vehicle: Parking	10/20/98	Sec. 24-6-3(C)
98-16	Tax Levy	1998	Special Legislation
99-1	Motor Vehicle: Truck Route	06/01/99	Sec. 24-8-14
99-2	Prevailing Wage	1999	Special Legislation
99-3	Administration: Gift Ban	06/15/99	Ch. 1; Art. VI
99-4	Annexation	1999	Special Legislation
99-4A	Appropriation	1999	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
99-5	Annexation	1999	Special Legislation
99-6	Street Name: West End Ave.	10/05/99	Special Legislation
99-7	Street Name: Jourdan St.	10/05/99	Special Legislation
99-8	Tax Levy	1999	Special Legislation
2000-1	Administration: Wards	02/15/00	Ch. 1; Art. IV
2000-2	Motor Vehicles: Truck Route	03/21/00	Sec. 24-8-14
2000-3	Electric: Cost Adjustments	04/18/00	Sec. 11-1-1(D)
2000-4	Revised Code	05/02/00	New Code
2000-5	Prevailing Wages	06/06/00	Special Legislation
2000-6	Appropriation	2000	Special Legislation
2000-7	Utilities: Connection Cost	07/18/00	Sec. 38-2-5(S)
2000-8	Recreation/Parks: Parking	07/18/00	Sec. 31-1-6
2000-9	Sale of Real Estate – Lot 19/20	08/01/00	Special Legislation
2000-10	Utilities: Sewer Connection Cost	09/05/00	Sec. 38-1-14(A)
2000-11	Employee: Absence	09/05/00	Sec. 12-1-25
2000-12	Building Regulations: Site Plan	09/19/00	Ch. 6; Art. I
2000-13	Ochs Ave Added to Street System	09/19/00	Special Legislation
2000-14	850 th Ave Added to Street System	09/19/00	Special Legislation
2000-15	Vacating Alley in Fithian's Addition	11/07/00	Special Legislation
2000-16	Tax Levy	2000	Special Legislation
2000-17	Motor Vehicles: Stop Signs	12/05/00	Sec. 24-3-3; Schd. "A"
2000-18	Annexation: McDaniel	12/05/00	Special Legislation
2000-19	Taxation: Taxpayers' Rights Code	12/05/00	Ch. 36; Art. II
01-1	Addition of Och Avenue	01/02/01	Special Legislation
01-2	Annexation: Jasper Jobs	01/16/01	Special Legislation
01-3	Vacating Alleys (Bowe)	02/06/01	Special Legislation
01-4	Employees: A.W.O.L.	02/20/01	Sec. 12-1-25
01-5	Motor Vehicles: Stops	03/16/01	Sec. 24-3-3; Schd. "C"
01-6	Electric: Liens	04/17/01	Sec. 11-1-6
01-7	Electric: Wholesale	04/17/01	Sec. 11-1-1(D)
01-8	Agreement with Flora	05/01/01	Not Implemented
01-9	Vacating Alley Block 27	06/05/01	Special Legislation
01-10	Capital Development Fund	06/19/01	Section 10-1-5(B)
01-11	Capital Development Fund 2.5%	06/19/01	Section 10-1-5(B)
01-12	Employees: Mileage	06/19/01	Sec. 12-1-20(C)
01-13	Employees: Salary Cap	06/19/01	Sec. 12-1-27(D)
01-14	Employees: Salary Cap	06/19/01	Sec. 12-1-27(E)
01-15	Prevailing Wages	2001	Special Legislation
01-16	Appropriation	2001	Special Legislation
01-17	Liquor: Persons Selling	07/03/01	Sec. 21-3-19

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
01-18	Administration: Wards	07/17/01	Sec. 1-4-1
01-19	Recreation/Parks: Skateboards	07/17/01	Sec. 31-1-7
01-20	Annexation: Jasper Jobs	07/17/01	Correction (#01-02)
01-21	Annexation	08/07/01	Special Legislation
01-22	Annexation	08/21/01	Special Legislation
01-23	Administration: Council Rules	09/04/01	Sec. 1-2-11(EE)(FF)
01-24	Electric: Regulations	11/20/01	Secs. 11-1-2; 11-1-6
01-25	Utilities: Deposits	11/20/01	Secs. 38-1-17; 38-1-18; 38-1-24
01-26	Tax Levy	12/04/01	Special Legislation
01-27	Public Safety	12/04/01	Secs. 30-3-1(A); 30-3-4
02-01	Electric: Unoccupied Rental Property	01/02/02	Sec. 11-1-4(C)
02-02	Utilities: Unoccupied Rental Property	01/02/02	Sec. 38-1-19
02-03	Employees: Sexual Harassment	02/05/02	Chapter 12
02-04	Utilities: Billing Procedures	02/19/02	Section 38-1-8
02-05	Appropriation	04/29/02	Special Legislation
02-06	Utilities: Water Leak	05/21/02	Section 38-1-24
02-07	Administration: Mail	06/04/02	Section 1-2-38
02-08	Prevailing Wage	2002	Special Legislation
02-09	Employees: Hiring & Training Costs	06/18/02	Secs. 12-1-3; 12-1-35
02-10	Taxation: Telecommunications Fee	06/18/02	Chapter 36
02-11	Appropriation	2002	Special Legislation
02-12	Motor Vehicles: Limited Parking	08/06/02	Section 24-6-3(C)
02-13	Vacating Alleys in Original Town	08/06/02	Special Legislation
02-14	Vacating Streets in Original Town	08/06/02	Special Legislation
02-15	Tax Abatement	09/17/02	Chapter 36
02-16	Tax Levy	2002	Special Legislation
03-01	Mobile Homes: Lots	01/21/03	Section 23-1-10
03-02	Animals: Miscellaneous	02/18/03	Ch. 3; Art. III
03-03	Business: Yard Sales	04/01/03	Ch. 7; Art. VI
03-04	Motor Vehicles: Parking Rules	04/01/03	Section 24-6-3
03-05	Nuisances: Prohibition	04/15/03	Sec. 25-1-2(B)(11)
03-06	Utilities: Water and Sewer	05/06/03	Secs. 38-1-1; 38-1-2; 38-1-11; 38-1-12; 38-1-13; 38-1-14
03-07	\$2,000,000 Sewerage Bonds	05/06/03	Special Legislation
03-08	Motor Vehicles: Parking	05/06/03	Ch. 24; Schd. "B" & "G"

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
03-09	Prevailing Wage	2003	Special Legislation
03-10	Appropriation	2003	Special Legislation
03-11	Utilities: Sewer Rates	09/16/03	Sec. 38-1-4(A)(B)
03-12	New Street: Eaton Ave.	10/07/03	Special Legislation
03-13	Animals: Dogs at Large	11/04/03	Section 3-1-2
03-14	Motor Vehicles: Load Limits	12/02/03	Ch. 24; Schd. "K"
03-15	Tax Levy	2003	Special Legislation
04-1	Administration: Ethics Act	05/04/04	Ch. 1; Art. VI
04-2	Motor Vehicles: No Parking	05/18/04	Ch. 24; Schd. "G"
04-3	Streets: Alley Improvement	05/18/04	Section 33-1-15
04-4	Employees: Residency	06/01/04	Section 12-1-4
04-5	Prevailing Wage	2004	Special Legislation
04-6	Appropriation	2004	Special Legislation
04-7	Administration: Collector	09/07/04	Secs. 1-2-89 & 1-2-90
04-8	Utilities: Potable Water	10/05/04	Section 38-4-6
04-9	Administration: Collector	10/05/04	Secs. 1-2-89 & 1-2-90
04-10	Water Main Extension	10/19/04	Special Legislation
04-11	Administration: Salaries	11/02/04	Section 1-3-1
04-12	Annexation	12/07/04	Special Legislation
04-13	Tax Levy	2004	Special Legislation
04-14	Offenses: Truancy	12/21/04	Ch. 27; Art. X
04-15	Employee Code	12/21/04	Chapter 12
04-16	Condemnation of Building	12/21/04	Special Legislation
04-17	Illinois Law Enforcement Alarm System: Mutual Aid Agreement	12/21/04	Section 30-2-19
04-18	Animals: Dogs	12/21/04	Chapter 3
05-1	Dedication of Property	01/18/05	Special Legislation
05-2	Offenses: Truancy	01/18/05	Ch. 27; Art. X
05-3	Building Code	02/15/05	Chapter 6
05-4	Garbage	03/01/05	Chapter 17
05-5	Enterprise Zone	03/01/05	Special Legislation
05-6	Annexation	03/01/05	Special Legislation
05-7	Appropriation	03/01/05	Special Legislation
05-8	Nomination of Candidates	04/05/05	Special Legislation
05-9	Dedication of Property	04/05/05	Special Legislation
05-10	Intergovernmental Agreement	04/05/05	Special Legislation
05-11	Public Safety: Police Officers	05/03/05	Ch. 30; Art. II; Div. II
05-12	Intergovernmental Agreement	05/03/05	Special Legislation
05-13	Animals: Unlawful to Maintain	05/03/05	Section 3-3-1
05-14	Prevailing Wage	2005	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
05-15	Issuance of Bonds	06/07/05	Special Legislation
05-16	Electric System	06/07/05	Section 11-1-1
05-17	Motor Vehicles: Load Limits	07/05/05	Ch. 24; Schd. "K"
05-18	Employees	07/05/05	Section 12-1-6(B)
05-19	Appropriation	2005	Special Legislation
05-20	Issuance of Bonds	07/19/05	Special Legislation
05-21	Payment of Governmental Securities	07/19/05	Special Legislation
05-22	Utilities: Sewer Rates	07/19/05	Section 38-1-4(A) (B)
05-23	Cemetery: Charges	08/02/05	Section 9-1-1
05-24	Employees: Department Heads	08/16/05	Section 12-1-37
05-25	Streets: Culverts	09/20/05	Section 33-1-13(D)
05-26	Appropriation	10/04/05	Special Legislation
05-27	Annexation	10/04/05	Special Legislation
05-28	Electric: Incentives	10/04/05	Section 11-2-1
05-29	Agreement for Water Service	10/18/05	Special Legislation
05-30	Freedom of Information	11/15/05	Chapter 16
05-31	Tax Levy	2005	Special Legislation
05-32	Business: Tattoo Artists	12/06/05	Ch. 7; Art. VII
05-33	Appropriation	12/20/05	Special Legislation
06-01	Liquor: Licenses	02/07/06	Section 21-2-7(E)
06-02	Vacation of Property	03/21/06	Special Legislation
06-03	Health Regulations: Hazardous Substance Policy	04/04/06	Chapter 18
06-04	Streets: Culverts	05/02/06	Section 33-1-13(D)
06-05	Prevailing Wage	2006	Special Legislation
06-06	Appropriation	2006	Special Legislation
06-07	Motor Vehicles: Parking	08/01/06	Ch. 24; Schd. "H"
06-08	Vacation of Alleys	10/17/06	Special Legislation
06-09	Motor Vehicles: Parking	10/17/06	Ch. 24; Schd. "H"
06-10	Administration: Rules	10/17/06	Section 1-2-11(E)
06-11	Administration: Salaries	10/24/06	Section 1-3-1(B)
06-12	Annexation	11/07/06	Special Legislation
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07-09	Appropriation	07/03/07	Special Legislation
07-10	Zoning: Map	07/17/07	Special Legislation
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07-13	Abatement of Taxes	08/07/07	Special Legislation
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08-2	Annexation: Woods	02/19/08	Special Legislation
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08-8	Electric & Utilities	03/18/08	Secs. 11-1-4; 11-1-7; 38-1-8; 38-1-9; 38-1-10; 38-1-17; 38-1-18
08-9	\$1,975,000 Revenue Bonds	04/01/08	Special Legislation
08-10	Tax Increment Finance	04/01/08	Chapter 35
08-11	Annexation: Various Areas	04/15/08	Special Legislation
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08-14	Buildings: Dangerous	06/17/08	Ch. 6; Art. II
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08-17	Appropriation	2008	Special Legislation
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09-6	Buildings: Demolition	06/16/09	Ch. 6; Art. III
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09-8	Zoning: Rezoning	07/07/09	Special Legislation
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09-10	Net Metering Policy	07/21/09	Ch. 11; Art. III
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10-17	Vacation of Street	09/07/10	Special Legislation
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EXHIBIT 'A'

CHAPTER 1

ADMINISTRATION

ARTICLE I - GENERAL CODE PROVISIONS

DIVISION I - TITLE

1-1-1 **TITLE.** Upon the adoption by the City Council, this City Code is hereby declared to be and shall hereafter constitute the official **"Revised Code of Ordinances of the City of Newton, Illinois"**. 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 5/1-2-3)**

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

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

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

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

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

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

DIVISION II - SAVING CLAUSE

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

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

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

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

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

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

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

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

CITY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF JASPER) ss. CITY CLERK'S OFFICE
CITY OF NEWTON)

I, Rosetta M. York, City Clerk of the **City of Newton, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the City of Newton, Illinois of 2023**, published by authority of the City Council were duly passed by the City Council of the **City of Newton, 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 Newton, Illinois**, this 21st day of February, 2023.

ROSETTA M. YORK
CITY CLERK
CITY OF NEWTON

(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 Newton, Illinois.

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

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

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

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

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

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

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

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

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

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

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

"MAY" as used in this Code means permissible.

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

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

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

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

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

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

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

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

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

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

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

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

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

"SHALL" as used in this Code means mandatory.

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

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

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

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

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

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

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

DIVISION IV - GENERAL PENALTY

1-1-20 **PENALTY.**

(A) Any person convicted of a violation of any section of this Code shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense.** (Ord. No. 96-3; 02-20-96)

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

(C) 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.

(D) 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, except when a court appearance is required by the ordinance violated or except when the offense would constitute the second or more ordinance offense of the same person within **one (1) year** of that person's first ordinance offense.

(E) All attorney's fees, engineering fees, abstractor fees, witness fees and all other costs or expenses incurred by the City in prosecuting any violation of or in enforcing any provision of this Code shall be assessed against the defendant. All such fees and expenses together with any fine shall not exceed a combined total of **Seven Hundred Fifty Dollars (\$750.00)** for each violation. (See 65 ILCS 5/1-2-1 and 5/1-2-7)

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

1-1-22 **APPLICATION.**

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

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

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

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

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

1-1-25 **PAYMENT OF CITY FINES, UTILITIES AND OTHER CITY CHARGES.** To ensure efficient operation of City Offices and to avoid disruption of City services, the City shall not accept coins in payment of City fines, City utilities or other City charges, except for such charges or portions of such charges which total less than **One Dollar (\$1.00)**. (**Ord. No. 16-04; 07-19-16**)

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 the term of office shall be for **four (4) years**, and until their successors are elected and have qualified. **(See 65 ILCS 5/3.1-10-50(D) and 5/3.1-20-10)**

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 **6:00 P.M.** When said meeting date falls upon a legal holiday, the meeting shall be held on the next secular day at the same hour. Adjourned meetings may be held at such times as may be determined by the Council. Public notice of regular meetings 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 5/3.1-40-25)**

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 5/3.1-40-25 and 5 ILCS 120/2.02 and 120/2.03)**

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

- | | | |
|-----|---------------------------------|---------------------------------|
| (A) | (1) Finance | (5) Park, Cemetery & Pool |
| | (2) Water/Sewer | (6) Industrial Dev. & Buildings |
| | (3) Streets, Alleys, Electrical | (7) ESDA, Health & Sanitation |
| | (4) Police | (8) Alcohol & Tobacco |

Each of the committees shall consist of at least **four (4) members** of whom **one (1)** shall be designated by the Mayor making the appointment to act as Chairman of such committee. It shall not be necessary that each Ward of the City be represented on all committees.

- (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 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 120/1 and 120/2.06)**

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

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

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

1-2-7 **APPROPRIATIONS.** The Council shall pass an ordinance within the first quarter of each fiscal year, to be termed the annual appropriation ordinance. In this ordinance the Council (1) may appropriate such sums of money as are deemed necessary to defray all necessary expenses and liabilities of the City, and (2) shall specify the objects and purposes for which these appropriations are made, and the amount appropriated for each object or purpose. Except as otherwise provided, no further appropriations shall be made at any other time within the same fiscal year, unless a proposition to make each additional appropriation has been first sanctioned by a petition signed by electors of the City numbering more than **fifty percent (50%)** of the number of votes cast for the candidates for Mayor at the last preceding general municipal election at which a Mayor was elected, by a petition signed by them, or by a majority of those voting on the question at a general state or municipal election or at a special municipal election duly called therefore.

During any fiscal year the Council may adopt a supplemental appropriation ordinance in an amount not in excess of the aggregate of any additional revenue available to the City or estimated to be received by the City subsequent to the adoption of the annual appropriation ordinance for that fiscal year. Such supplemental appropriation ordinance shall only affect revenue that was not available for appropriation when that annual appropriation ordinance was adopted, and the provisions of this Section prohibiting further appropriations without sanction by petition or election shall not be applicable to such supplemental appropriation for that fiscal year.

The Council at any time after the first half of each fiscal year by a **two-thirds (2/3)** vote of all members of such body, may make transfers within any department or other separate agency of the municipal government, of sums of money appropriated for one corporate object or purpose to another corporate object or purpose, but no appropriation for any object or purpose shall thereby be reduced below an amount sufficient to cover all obligations incurred or to be incurred against such appropriation. Nothing herein contained shall deprive the Council of the power to provide for and cause to be paid from the funds of the City any charge imposed by law without the action of the Council, the payment of which is ordered by a court of competent jurisdiction. **(See 65 ILCS 5/8-2-9) (See City Clerk) (See Section 1-3-45)**

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

DIVISION II - RULES OF THE CITY COUNCIL

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

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

- (1) Call to order.
- (2) Pledge of Allegiance.
- (3) Roll Call.
- (4) Adopt or amend agenda.
- (5) Approval of regular meeting.
- (6) Approval of bills and accounts payable.
- (7) Public comments/communications.*
- (8) Committee reports and/or council representative reports.

- (9) Old business.
- (10) New business.
- (11) Statements by: Council members, City Attorney, City Treasurer, City Clerk, and Mayor.
- (12) Scheduling of next regular meeting and schedule committee meetings.
- (13) Executive session.
- (14) Adjournment.

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

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.** After the public comment period, no person other than a member of the Council shall address that body, without permission of the Council, except under the provisions of **Section 1-2-13.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Q) **Announcement and Changes of Vote.** The result of all votes by yeas and nays shall not be announced by the Clerk but shall be handed 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 5/3.1-40-15)

(EE) **Disruptions Prohibited.** No person or group shall disrupt any meeting of the City Council. Any person disrupting any meeting shall be advised by the Chairman or any police officer to cease the disruption. If the person fails to cease the disruption, the person may be ejected from the meeting and any person so disrupting a meeting shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. **(Ord. No. 01-23; 09-04-01)**

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

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

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

- (1) He or she shall rise (if not physically impaired) and state his or her name and address for the record and unless further time is granted by the Council to limit remarks to **five (5) minutes**. All remarks shall be addressed to the City Council, not to any member thereof.
- (2) No person other than the Council member recognizing the individual addressing the Council and the person having the floor shall be permitted to enter into any discussion directly or through a member of the Council without the permission of the Mayor. No questions shall be asked of an Alderman except through the Mayor. Any person making personal or impertinent remarks or who shall become disruptive addressing the City Council shall be forthwith evicted from the Council room by the Mayor.

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

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

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

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 5/3.1-40-40)**

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

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

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

1-2-17 **ORDINANCE RECORD; PRIMA FACIE EVIDENCE.** The City Clerk shall record, in a book used exclusively for that purpose, all ordinances passed by the Council. Immediately following each ordinance, the City Clerk shall make a memorandum of the date of the passage and of the publication of the ordinance. This record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage, and of the publication of posting of ordinances.

1-2-18 **PROOF OF ORDINANCES.** The contents of all City ordinances, the date of passage, and the date of publication or posting, where required, may be proved by the certificate of the City Clerk, under the seal of the corporation.

Whenever City ordinances are printed in book or pamphlet form, and purport to be published by authority of the Council, such book or pamphlet shall be prima facie evidence of the contents, passage, and legal publication of such ordinances, as of the dates mentioned in such book or pamphlet, in all courts and administrative tribunals.

DIVISION IV - GENERAL PROVISIONS

1-2-19 **CORPORATE SEAL.**
 (A) The Seal of the City shall be the same as that heretofore provided and used by the City. It shall be circular in form with the words, “City of Newton, Illinois” in the outer circle and the word “Seal” and “1887” in the center of the seal. (See 65 ILCS 5/2-2-12)

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

1-2-20 **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 meetings of the City Council in the month of May following the general municipal election in April. (See 65 ILCS 5/3.1-10-15)

1-2-21 **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 5/3.1-15-15)

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

1-2-22 MUNICIPAL OFFICERS - REGULATIONS.

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

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

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

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

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

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

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

(F) **Fees; Report of Fees.** No officer of the municipality shall be entitled to charge or receive any fees as against the City. All officers of the City entitled to receive fees shall keep a correct account thereof and make a report thereof under oath to the 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 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 5/3.1-15-25)

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

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

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

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

(See "Administration of Oaths", Section 1-3-23)

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 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. (65 ILCS 3.1-10-5(A))

(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. (65 ILCS 3.1-10-5 and 3.1-10-5(B))

(C) A person is not eligible for the office of Alderman of a ward unless that person has resided in the ward that the person seeks to represent, and a person is not eligible for the office of trustee of a district unless that person has resided in the municipality, at least **one (1) year** next preceding the election or appointment, except as provided in 65 ILCS 5/3.1-20-25 and 5/5-2-2. (See 730 ILCS 5/5-5-5(b))

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

1-2-25 BONDS OF CITY OFFICERS.

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

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

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

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

1-2-26 **LIABILITY INSURANCE.**

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

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

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

1-2-27 **BIDDING AND CONTRACT PROCEDURES.**

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

(B) **Formal Contract Procedure.** All work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases, orders or contracts for supplies, materials, equipment or contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed **Twenty Thousand Dollars (\$20,000.00)**, shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of **two-thirds (2/3)** of the Aldermen then holding office.

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

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

(E) **Bid Deposits.** When deemed necessary by the City Council, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to the return of their bid deposits upon the award of the contract by the City Council. A successful bidder shall forfeit any

bid deposit required by the City Council upon failure on his part to enter into a contract within **ten (10) days** after the award.

(F) **Bid Opening Procedure.**

- (1) **Sealed.** Bids shall be submitted sealed to the City and shall be identified as bids on the envelope.
- (2) **Opening.** Bids shall be opened in public at the time and place stated in the public notice.
- (3) **Tabulation.** A tabulation of all bids received shall be made by the City Council or by a City employee, in which event, a tabulation of the bids shall be furnished to the City Council at its next regular meeting.

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

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

(I) **Award of Contract.**

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

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

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

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

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

1-2-28 INTERESTS IN CONTRACTS PROHIBITED.

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

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

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

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

- (1) If:
 - (a) the contract is with a person, firm, partnership, association in which the interested member of the governing body of the municipality member has less than a **seven and one-half percent (7 ½%)** share in the ownership;
 - (b) the interested member publicly discloses the nature and extent of the interest before or during deliberations concerning the proposed award of the contract;
 - (c) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum);
 - (d) the contract is approved by a majority vote of those members presently holding office;
 - (e) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds **One Thousand Five Hundred Dollars (\$1,500.00)** (but the contract may be awarded without bidding if the amount is less

- than **One Thousand Five Hundred Dollars (\$1,500.00)**; and
- (f) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Twenty-Five Thousand Dollars (\$25,000.00)**.
- (2) If:
- (a) the award of the contract is approved by a majority vote of the governing body of the municipality (provided that the interested member shall abstain from voting);
 - (b) the amount of the contract does not exceed **Two Thousand Dollars (\$2,000.00)**;
 - (c) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Four Thousand Dollars (\$4,000.00)**;
 - (d) the interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
 - (e) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum).
- (3) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:
- (a) the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a **one percent (1%)** share in the ownership; and
 - (b) the award of the contract is approved by a majority vote of the governing body of the municipality provided that any such interested member shall abstain from voting; and
 - (c) such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
 - (d) such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

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

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

(E) Nothing contained in this Section, including the restrictions set forth in subsections (B) and (C), shall preclude a contract of deposit of moneys, loans, or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member

of the governing body of the municipality is interested in the bank or savings and loan association as an officer or employee or as a holder of less than **seven and one-half percent (7 ½%)** of the total ownership interest. A member holding an interest described in this subsection (E) in a contract does not hold a prohibited interest for purposes of this Act. The interested member of the governing body must publicly state the nature and extent of the interest during deliberations concerning the proposed award of the contract but shall not participate in any further deliberations concerning the proposed award. The interested member shall not vote on the proposed award. A member abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of the contract shall require approval by a majority vote of those members presently holding office. Consideration and award of a contract in which a member is interested may only be made at a regularly scheduled public meeting of the governing body of the municipality.

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

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

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

(See 65 ILCS 5/3.1-55-10)

1-2-29 SALARIES REGULATION.

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

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

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

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

1-2-30 CLAIMS.

(A) **Presentation.** All claims against the City for goods purchased, damaged, or originating in any other way, except for claims for salaries and other allowances that are fixed by

ordinance, **must be presented on or before the first Monday of each month** to the City Clerk. All such claims must be in writing and items shall be specified.

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

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

1-2-31 EXPENSES - REIMBURSEMENT.

(A) **Definitions.**

- (1) **"Entertainment"** includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.
- (2) **"Public Business"** means expenses incurred in the performance of a public purpose which is required or useful for the benefit of the City to carry out the responsibilities of City business.
- (3) **"Travel"** means any expenditure directly incident to official travel by employees and officers of the City or by wards or charges of the City involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.

(B) The City shall only reimburse the following types of travel, meal, and lodging expenses incurred by its employees and officers up to the following maximum allowable amounts:

- (1) Non-police employees refer to Article 22 of the Collective Bargaining Agreement with the City;
- (2) Police department employees refer to Article 23 of the Collective Bargaining Agreement with the City;
- (3) Management refers to **Section 12-1-20** in the Employee Code, and
- (4) Elected officials – actual out-of-pocket expenses.

Alcohol is specifically excluded from reimbursement.

(C) No reimbursement of travel, meal or lodging expenses incurred by a City employee or officer shall be authorized unless the "Travel, Meal and Lodging Expense Reimbursement Request Form," attached hereto and made a part hereof, has been submitted and approved. All documents and information submitted with the form shall be subject to disclosure under the Freedom of Information Act (**5 ILCS 140/1 et seq.**).

(D) Expenses for travel, meals and lodging of: (1) any officer or employee that exceeds the maximum reimbursement allowed under the regulations adopted under paragraph (B) of this Section or (2) any member of the corporate authorities of the City may only be approved by roll call vote at an open meeting of the corporate authorities of the City. However, in the event of an emergency or other extraordinary circumstances, the corporate authorities may approve more than the maximum allowable expenses set forth above.

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

(Ord. No. 16-12; 12-20-16)

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

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

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

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

1-2-35 ILLINOIS MUNICIPAL RETIREMENT FUND.

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

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

1-2-36 CERTIFICATES OF INSURANCE. All contractors and sub-contractors doing work for the City of Newton shall first provide a Certificate of Insurance indicating insurance coverage as follows:

(A) Commercial general liability (CGL) or GL - **One Million Dollars (\$1,000,000.00)** per occurrence and **Two Million Dollars (\$2,000,000.00)** aggregate.

(B) Excess and/or umbrella in such amounts as the City may require. Such policy shall provide that the periods for the underlying insurance coverage and the excess policies are the same.

(C) Products and completed operations - **Two Million Dollars (\$2,000,000.00)** aggregate. Such coverage must remain in force for at least **five (5) years** following completion of the project.

(D) Worker's compensation - in the amounts of the statutory limits required under the Illinois Worker's Compensation Act.

(E) Employer's liability - **One Million Dollars (\$1,000,000.00)** per occurrence, **One Million Dollars (\$1,000,000.00)** each accident, **One Million Dollars (\$1,000,000.00)** each disease, **One Million Dollars (\$1,000,000.00)** disease.

(F) Liquor liability - **One Million Dollars (\$1,000,000.00)** per occurrence, **Two Million Dollars (\$2,000,000.00)** aggregate.

(G) Auto liability - **One Million Dollars (\$1,000,000.00)** per occurrence combined single limit or **One Million Dollars (\$1,000,000.00)** bodily injury per occurrence, **Five Hundred Thousand Dollars (\$500,000.00)** property damage with the coverage being primary.

(H) Builder's risk - Equal to **one hundred percent (100%)** of the completed value of the work the contractor is performing.

(I) Professional liability (errors and omissions) - **One Million Dollars (\$1,000,000.00)** per occurrence, **One Million Dollars (\$1,000,000.00)** aggregate. Such coverage should be on an "occurrence" basis and not on a "claims made" basis. If the insurance is on a "claim made" basis, then the policy should be in the form of a "project policy" with a **five (5) year** extended reporting period endorsement. Coverage shall be retroactive to the earlier of the date of the contract or agreement or the commencement of the services in relation to the project. The policy shall cover personal injury, bodily injury and property damage.

(J) All insurance coverages above described shall name the City of Newton, Illinois as an additional insured and a copy of the additional insured endorsement shall be supplied to the City. All of the coverage amounts above specified may be modified by the City Council of the City of Newton as it may determine on a case-by-case basis depending on, among other things, the size of the project and exposure.

(Ord. No. 10-23; 12-07-10)

1-2-37 **MAIL.** All mail, except as hereinafter provided, addressed to the City in any manner and bearing the address of 108 North Van Buren Street, Newton, Illinois or any other address maintained by the City shall be opened by the City Clerk and appropriately disbursed by the City Clerk to the appropriate Department of the City. All mail addressed to the Mayor, City Treasurer, City Clerk, Chief of Police, Police Department, Library, City Engineer, City Attorney or to an Alderman shall be turned over to that person without the same being opened. Additionally, any mail addressed specifically to an Employee of the City and marked personal, privileged, or confidential shall be turned over to that person without it being opened. City Employees shall take all steps necessary to prevent personal mail from being sent to any address maintained by the City. **(Ord. No. 02-07; 06-04-02)**

1-2-38 **CONTROL OF PROPERTY OWNED BY CITY OUTSIDE OF CITY LIMITS.** All property which (1) is owned by the City, and (2) lies outside the corporate limits of the City, and (3) does not lie within the corporate limits of any other municipality, shall be subject to the ordinances, control, and jurisdiction of the City in all respects the same as the property owned by the City which lies within the corporate limits thereof. **(See 65 ILCS 5/7-4-2)**

1-2-39 **TERRITORIAL JURISDICTION ESTABLISHED.** The City Council shall have jurisdiction in and over all places within **one-half (1/2) mile** of the corporate limits for the purpose of enforcing health and quarantine ordinances and regulations. **(See 65 ILCS 5/7-4-1)**

1-2-40 - 1-2-46 **RESERVED.**

DIVISION V - VACANCIES

1-2-47 **VACANCY BY RESIGNATION.** A resignation is not effective unless it is in writing, signed by the person holding the elective office, and notarized.

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

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

(C) **Vacancy Upon the Effective Date.** For the purpose of determining the time period that would require an election to fill the vacancy by resignation or the commencement of the **sixty (60) day** time period referred to in **Section 1-2-41**, the resignation of an elected officer is deemed to have created a vacancy as of the effective date of the resignation.

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

1-2-48 **VACANCY BY DEATH OR DISABILITY.** A vacancy occurs in an office by reason of the death of the incumbent. The date of the death may be established by the date shown on the death certificate. A vacancy occurs in an office by permanent physical or mental disability rendering the person incapable of performing the duties of the office. The corporate authorities have the authority to make the determination whether an officer is incapable of performing the duties of the office because of a permanent physical or mental disability. A finding of mental disability shall not be made prior to the appointment by a court of a guardian ad litem for the officer or until a duly licensed doctor certifies, in writing, that the officer is mentally impaired to the extent that the officer is unable to effectively perform the duties of the office. If the corporate authorities find that an officer is incapable of performing the duties of the office due to permanent physical or mental disability, that person is removed from the office and the vacancy of the office occurs on the date of the determination.

1-2-49 **VACANCY BY OTHER CAUSES.**

(A) **Abandonment and Other Causes.** A vacancy occurs in an office by reason of abandonment of office; removal from office; or failure to qualify; or more than temporary removal of residence from the Municipality, as the case may be. The corporate authorities have the authority to determine whether a vacancy under this Section has occurred. If the corporate authorities determine that a vacancy exists, the office is deemed vacant as of the date of that determination for all purposes including the calculation under **Sections 1-2-51 or 1-2-52.**

(B) **Guilty of a Criminal Offense.** An admission of guilt of a criminal offense that upon conviction would disqualify the municipal officer from holding the office, in the form of a written agreement with State or federal prosecutors to plead guilty to a felony, bribery, perjury, or other infamous crime under State or federal law, constitutes a resignation from that office, effective on the date the plea agreement is made. For purposes of this Section, a conviction for an offense that disqualifies a municipal officer from holding that office occurs on the date of the return of a guilty verdict or, in the case of a trial by the court, on the entry of a finding of guilt.

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

1-2-50 **ELECTION OF AN ACTING MAYOR.** The election of an acting Mayor pursuant to **Section 1-2-52 or 1-2-53** does not create a vacancy in the original office of the person on the City Council, unless the person resigns from the original office following election as acting Mayor. If the person resigns from the original office following election as acting Mayor, then the original office must be filled pursuant to the terms of this Section and the acting Mayor shall exercise the powers of the Mayor and shall vote and have veto power in the manner provided by law for a Mayor. If the person does not resign from the original office following election as acting Mayor, then the acting Mayor shall exercise the powers of the Mayor but shall be entitled to vote only in the manner provided for as the holder of the original office and shall not have the power to veto. If the person does not resign from the original office following election as acting Mayor, and if that person's original term of office has not expired when a Mayor is elected and has qualified for office, the acting Mayor shall return to the original office for the remainder of the term thereof.

1-2-51 **APPOINTMENT TO FILL ALDERMAN VACANCY.** An appointment by the Mayor or acting Mayor, as the case may be, of a qualified person as described in **Section 1-2-22** of this Code to fill a vacancy in the office of Alderman must be made within **sixty (60) days** after the vacancy occurs. Once the appointment of the qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment fails to receive the advice and consent of the corporate authorities within **thirty (30) days**, the Mayor or acting Mayor shall appoint and forward to the corporate authorities a second qualified person as described in **Section 1-2-22**. Once the appointment of the second qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment of the second qualified person also fails to receive the advice and consent of

the corporate authorities, then the Mayor or acting Mayor, without the advice and consent of the corporate authorities, may make a temporary appointment from those persons who were appointed but whose appointments failed to receive the advice and consent of the corporate authorities. The person receiving the temporary appointment shall serve until an appointment has received the advice and consent and the appointee has qualified or until a person has been elected and has qualified, whichever first occurs.

1-2-52 **ELECTION TO FILL VACANCIES IN MUNICIPAL OFFICES WITH FOUR (4) YEAR TERMS.** If a vacancy occurs in an elective municipal office with a **four (4) year term** and there remains an unexpired portion of the term of at least **twenty-eight (28) months**, and the vacancy occurs at least **one hundred thirty (130) days** before the general municipal election next scheduled under the general election law, then the vacancy shall be filled for the remainder of the term at that general municipal election. Whenever an election is held for this purpose, the City Clerk shall certify the office to be filled and the candidates for the office to the proper election authorities as provided in the general election law. If a vacancy occurs with less than **twenty-eight (28) months** remaining in the unexpired portion of the term or less than **one hundred thirty (130) days** before the general municipal election, then:

(A) **Mayor.** If the vacancy is in the office of Mayor, the vacancy must be filled by the corporate authorities electing one of their members as acting Mayor. Except as set forth in **Section 1-2-50**, the acting Mayor shall perform the duties and possess all the rights and powers of the Mayor until a Mayor is elected at the next general municipal election and has qualified.

(B) **Alderman.** If the vacancy is in the office of Alderman, the vacancy must be filled by the Mayor or acting Mayor, as the case may be, in accordance with **Section 1-2-51**.

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

1-2-53 **VACANCIES DUE TO ELECTION BEING DECLARED VOID.** In cases of vacancies arising by reason of an election being declared void pursuant to **Section 1-2-49(C)**, persons holding elective office prior thereto shall hold office until their successors are elected and qualified or appointed and confirmed by advice and consent, as the case may be.

1-2-54 **OWING A DEBT TO THE MUNICIPALITY.** A vacancy occurs if a municipal official fails to pay a debt to a municipality in which the official has been elected or appointed to an elected position subject to the provisions of **65 ILCS 5/3.1-10-59(C)(4)**.

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

1-2-55 - 1-2-60 **RESERVED.**

ARTICLE III – OFFICIALS

DIVISION I - MAYOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIVISION II - CITY CLERK

1-3-16 **ELECTED.** The Clerk shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until a successor is elected and has qualified. Effective **May 1, 2017** the City Clerk's position shall be a part-time elected position for which the City Clerk shall receive **Eighteen Thousand Dollars (\$18,000.00)** per year. For said salary the City Clerk shall work a minimum of **sixteen (16) hours** per week in the City Clerk's office and shall attend the bi-monthly City Council meetings. The City Clerk shall also perform such other duties as the City may request from time to time. Additional compensation for hours worked in excess of **sixteen (16) hours** per week shall be at the City's established rate for part-time employees. **(65 ILCS 5/3.1-15-5 and 5/3.1-30-5) (Ord. No. 16-09; 10-18-16)**

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

1-3-18 **PUBLICATION OF ORDINANCES; COUNCIL MINUTES AND 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, he 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.** He 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.** He 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)**

(E) **Hours.** The office of the City Clerk shall be open Monday through Friday of each week excepting holidays in such facilities as the City Council may provide, and the hours that such office shall be open shall be prominently displayed on or at the entrance thereto. Notwithstanding the foregoing, the hours of the City Clerk shall be as determined as set forth in **Section 1-2-56. (Ord. No. 11-14; 10-04-11)**

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

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

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

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

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

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

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

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

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

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

1-3-29 **OTHER DUTIES.** In addition to the foregoing duties, the City Clerk shall perform all such other duties pertaining to his office as are or may be imposed upon him by law or resolution or ordinance of the City Council, including but not limited to the following:

- (A) The City Clerk is the local election official and must fulfill the obligation required by the State Board of Elections.
- (B) Follow the requirements set forth in the Illinois Municipal handbook pertaining to City Clerks including the keeping of the corporate seal and all papers of the municipality.
- (C) Scan the Newton Press-Mentor and keep copies of notices published by the City.
- (D) Accept building permits applications and process until the permit has been issued and collect fees for building permits.
- (E) Collect franchise fees due to the City.
- (F) Collect City's share of animal control facility receipts.
- (G) Oversee updating of City Code Book on an annual basis.
- (H) Maintain a separate ledger containing minutes of all closed sessions by the City Council.
- (I) Perform duties as needed for zoning officials.
- (J) Maintain ledger and map showing ownership of burial plots in Riverside cemetery and update cemetery book as needed.
- (K) Issue new burial licenses.
- (L) Collect for grave openings.
- (M) Bill for and send renewal applications to all liquor license holders annually.
- (N) Bill for and collect the fees due for C.O.A.D. licensees annually.
- (O) Issue and collect for raffle licenses.
- (P) Issue and collect for solicitor's and peddler's permits.
- (Q) Perform miscellaneous other duties including answering the phone and radio, distributing JULIE reports, fax and copy reports, maintain contact with electric, water and sewer departments, participate in problem resolution with customers utilities, in general perform the duties that are necessary for the professional, efficient operation of the office including performing the duties of the Collector and/or Billing/Collecting Clerk during their absence. **(See 65 ILCS 5/3.1-10-40)**
(Ord. No. 11-14; 10-04-11)

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

The powers and duties herein described shall be executed by such Deputy Clerk only in the absence of the City Clerk from the City Clerk's office in the City Hall, and only when either written direction has been given by the City Clerk to such Deputy Clerk to exercise such power or the City Council has determined by resolution that the City Clerk is temporarily or permanently incapacitated to perform such functions.
(See 65 ILCS 5/3.1-30-10 and 5/3.1-10-45 and 5/3.1-35-95)

1-3-31 - 1-3-32 **RESERVED.**

DIVISION III - CITY TREASURER

1-3-33 **DEPARTMENT ESTABLISHED.** There is hereby established a department of the municipal government of the City which shall be known as the "**Finance Department**". It shall embrace the Finance Committee and the Treasurer.

1-3-34 **FINANCE COMMITTEE.** The standing committee on Finance shall exercise a general supervision over the affairs of the Finance Department. It shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had and generally, shall do all the acts necessary to promote the efficiency of the Department.

1-3-35 **TREASURER APPOINTED; VACANCY.** Effective **May 1, 2013**, the City Treasurer shall be appointed by the Mayor annually and shall serve until his successor is appointed 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 City Treasurer position is a full-time position and will be required to work a minimum of **forty (40) hours** per week. The City Treasurer attendance at City Council meetings or other evening meeting of the City are not to be considered part of the **forty (40) hour** work week. **(Ord. No. 11-15; 10-04-11)**

1-3-36 **MONEY; WARRANTS; ACCOUNTS; PAYMENTS.** The City Treasurer shall receive all monies belonging to this City and shall pay all warrants signed by the Mayor and countersigned by the City Clerk and not otherwise; and shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. The Treasurer shall give to every person paying money into the City Treasury a receipt therefor, specifying the date of payment, and upon what account paid, and shall file copies of such receipts with the Clerk with the monthly reports. **(See 65 ILCS 5/3.1-35-40)**

1-3-37 **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 5/3.1-35-40 and 5/3.1-35-45)**

1-3-38 **PERSONAL USE OF FUNDS.** The City Treasurer shall keep all money belonging to the Municipality and in the Treasurer's custody separate and distinct from the Treasurer's own money and shall not use, either directly or indirectly, the Municipality's monies or warrants for the personal use and benefit of the Treasurer or of any other person. Any violation of this provision shall subject the Treasurer to immediate removal from office by the corporate authorities, who may declare the Treasurer's office vacant. **(See 65 ILCS 5/3.1-35-55)**

1-3-39 **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 5/3.1-10-45)**

1-3-40 **SPECIAL ASSESSMENTS.** The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. (See 65 ILCS 5/3.1-35-85)

1-3-41 **BOOKKEEPING.** The Treasurer shall keep the books and accounts in such a manner as to show with accuracy, all monies received and disbursed for the City, stating from whom and on what account received, and to whom and on what account paid out, and in such a way that the books and accounts may be readily investigated and understood, and the books and accounts and all files and papers of the office shall be, at all times, open to examination by the Mayor or the Finance Committee of the Council. (See 65 ILCS 5/3.1-35-40)

1-3-42 **STATEMENTS.** The Treasurer shall report to the corporate authorities at the regular monthly meeting, a full and detailed account of all receipts and expenditures of the municipality as shown by his books up to the time of the report. (See 65 ILCS 5/3.1-35-45)

1-3-43 **REPORT DELINQUENT OFFICERS.** It shall be the duty of the Treasurer to report to the City Clerk any officer of the City authorized to receive money for the use of the City who may fail to make a return of the monies received by the Treasurer at the time required by law or by ordinances of the City.

1-3-44 **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 5/3.1-35-65)

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

1-3-45 **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 monies 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 5/3.1-35-115) (See Section 1-2-7)**

1-3-46 DEPOSIT OF FUNDS.

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

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

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

(D) Each City Treasurer may:

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

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

(E) No bank or savings and loan association shall receive public funds as permitted by this Section unless it has complied with the requirements established by Section 6 of the Public Funds Investment Act. **(See 65 ILCS 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 monies in his custody belonging to this municipality:

- (1) People's State Bank, Newton, IL
- (2) First Financial Bank
- (3) First National Bank of Dietrich, Newton, IL
- (4) First National Bank in Olney, Newton Branch

1-3-47 DEPUTY CITY TREASURER.

(A) **Creation of Office.** There is hereby created the office of Deputy City Treasurer. The Deputy City Treasurer shall be appointed by the Mayor by and with the advice and consent of the City Council.

(B) **Bond.** The Deputy City Treasurer shall give bond in such sum as may be required by the City Council, but the bond shall not be less than that required of the City Treasurer, with sureties to be approved by the City Council. The bond shall be conditioned upon the faithful performance of the Deputy City Treasurer of his duties of office, and to indemnify the City for any loss due to any neglect of duty or wrongful act on the part of the said Deputy City Treasurer.

(C) **Duties.** The Deputy City Treasurer shall perform such duties as may be prescribed by Statute or Ordinance, or as directed by the City Treasurer. He or she shall assist the City Treasurer in all duties as prescribed for the City Treasurer by the Statutes of the State of Illinois and the Ordinances of the City of Newton.

(D) **Term of Office.** The Deputy City Treasurer shall be appointed for a term which shall be established from time to time by the City Council. **(See Sec. 3.11 1/2 former City Code)**

1-3-48 OTHER DUTIES. In addition to the foregoing duties, the City Treasurer shall perform all such other duties pertaining to his office as are or may be imposed upon him by law or resolution or ordinance of the City Council, including but not limited to the following:

(A) **Money, Warrants, Accounts and Payments.**

- (1) Receive daily collection of utility payments from the City Collector.
- (2) County cash and verify the individual checks with the list of payments provided by the City Collector and take these collections to the bank and deposit in clearing account.
- (3) Make sure money from clearing account is transferred to appropriate accounts (water, sewer, electric, Imperial Acres Sewer Loan account, utility deposit refund account, etc.) as needed and put into money market accounts.
- (4) Open mail, deposit State and County income checks in appropriate accounts and keep records in computer as to amount and account number.
- (5) Transfer appropriate amounts into correct money market accounts.
- (6) Maintain list of all Certificates of Deposit by departments, interest received, date interest received and renew at the best interest rate when matured.
- (7) Keep record of collateralization of funds in all banks.
- (8) Invest all funds in appropriate accounts to provide the best return on investments as provided by the City of Newton's investment policy.
- (9) Look at all bills received from vendors. Match the signed and department coded receipts to bills for accuracy. Make a list of bills by department, put vendor codes on each bill so the bills can be put into computer and checks printed. Type the accounts payable list for Council approval and a permanent copy for the City Clerk's official record.
- (10) Coordinate efforts for successful completion of City grants, monitor receipts and disbursements.

(B) **Monthly Reports, Quarterly Reports, Yearly Reports, Budget, Appropriations, Tax Levy, Audits.**

- (1) Review monthly financial reports, before presenting to the council for accuracy.
- (2) Review monthly Utility tax report before submitting to state.
- (3) Review Quarterly payroll reports 941, IL-941, State Unemployment Review Yearly W-2's, and State sales tax report.
- (4) Prepare the yearly budget for General Administration. Work with Finance Chairman and department heads in preparing yearly budgets for all other departments and enter into computer.
- (5) Prepare a copy of all budgets for Council approval before the last scheduled council meeting in April.

- (6) work with the Finance Chairman to prepare the yearly appropriations for all departments and enter into computer.
- (7) Prepare the yearly appropriations ordinance for approval before the last Council meeting in July, including all legal requirements. Provide the County Clerk a copy of the Council approved Appropriations Ordinance.
- (8) Determine amounts needed for yearly tax levy. Prepare yearly tax levy for Council approval and record at County Clerk before the last Tuesday in December.
- (9) Answer any questions the council or department heads might have concerning the Budget or coding of expenses.
- (10) Have available all records requested by the auditors and answer any questions auditors might have. After auditors have prepared a draft copy of the Audit check over the copy for accuracy, or discrepancies in adjustments. Make comments on major changes in audit report.
- (11) Assist in preparing annual treasurer report, meet all legal requirements and publish in paper within **six (6) months** after the end of a fiscal year.
- (12) **Motor Fuel Tax Audit.** Have all records available to MFT auditor.
- (13) Make sure all MFT expenses are within the MFT program.

(C) **Work with City Clerk and Collector.** Work with City Clerk and Collector monthly to assure that all transactions are recorded properly; closely monitoring the billing and receipts of city utilities.

(D) **Insurance.**

- (1) Maintain insurance policy periods for property/liability, worker's compensation, Inland Marine, and notary bonds.
- (2) Prepare renewal notices and bid quotes.
- (3) Update new equipment or vehicles purchased with insurance company.
- (4) Provide yearly estimated Payroll expense for work comp. Report accidents to work comp, work with work comp adjuster on work comp claims.
- (5) Work with Clerk to make sure we have Certificate of Insurance on Contractors.

(E) **IMRF Agent.**

- (1) The City Treasurer is the authorized Agent for the Illinois Municipal Retirement Fund.
- (2) Register new employees, discuss with employees their IMRF benefits, answer any questions, and complete required paperwork for benefits.

(F) **Meetings.**

- (1) Attend scheduled Council meetings and attend scheduled committee meetings.
- (2) Attend Illinois Municipal Treasurer's Association meetings and seminars, Clerk/Treasurers area meetings, State Treasurer symposiums, IMRF meeting and training sessions.

(G) **Other Duties.**

(1) **Health Insurance.**

- (a) Administer the City of Newton Health Plan. Work with employees regarding problems with claims.
- (b) Work with Risk Management and third-party administrators on Policy changes to safeguard insurance plan and comply with Health Portability Act.
- (c) Work with Third Party Administrators to enroll new employees and remove employees when they leave their employment with the City.
- (d) Send required COBRA letter to employees leaving the city employment.

- (e) Monitor explanation of benefits received by employees to insure proper payments are made to provider. Make sure employee's claims that have reached reinsurance status are properly reimbursed back to insurance account, Monitor Med-Trak claims. Attend any insurance meetings required for efficient operation of City health insurance plan.
- (2) **TIF.** Administer City of Newton TIF Fund. Work closely with Economic Development Director to ensure that Agreements are properly signed, and proper verification of expenses and payments are received by the City before reimbursement is made. Monitor income and expense closely and send a report to Economic Development Director on status of funds. File TIF report after fiscal year-end audit is received from auditors.
- (3) **FOIA Officer.**
 - (a) Registered at Illinois Attorney General Office and have online training.
 - (b) Receive request for documents submitted to the City pertaining to the Treasurer Office, ensure a timely response by the City.

(Ord. No. 11-15; 10-04-11)

1-3-49 - 1-3-50 **RESERVED.**

DIVISION IV - JUDICIARY

1-3-51 **APPOINTMENT OF ATTORNEY.** The Attorney shall be appointed by the Mayor, by and with the advice and consent of the City Council for the term of **one (1) year**, unless sooner removed for cause, and until a successor shall have been appointed and qualified. The Attorney shall have full charge of the law affairs of the City and shall be known as the City Attorney, and shall receive reasonable fees for services rendered when, in his or her judgment, or in the judgment of the Mayor or City Council, the same are necessary or are for the best interests of the City. **(See 65 ILCS 5/3.1-30-5)**

1-3-52 **DUTIES.**

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

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

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

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

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

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

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

1-3-53 PROSECUTOR'S FEE.

(A) For each complaint that is prosecuted on behalf of the City to enforce the provisions of general ordinances of the City and also to enforce provisions of State Statutes, statutes affecting the affairs of the City, there shall be added as costs to be assessed against the defendant in each case the sum of **Twenty-Five Dollars (\$25.00)** to be known as the **"City Prosecutor's Fee"**.

(B) Upon said defendant being found guilty of the charges as set up in the complaint that is filed on behalf of the City in any of the two above named situations, it shall be the duty of the Court before whom such matter is heard to assess a City Prosecutor's Fee in the sum of **Twenty-Five Dollars (\$25.00)**, which shall be paid directly to the Prosecutor by the Clerk of the Circuit Court, and that the fine or penalty as assessed by the Court for the violation of the complaint shall be paid to the City Clerk.

1-3-54 - 1-3-55 RESERVED.

DIVISION V - CITY COLLECTOR

1-3-56 GENERAL. The City Collector shall be a full-time administrative position. This position is appointed by the Mayor with the advice and consent of the City Council and reports to the Mayor and City Council and is subject to change, discipline or termination by the Mayor and City Council. Any person filling this position should have a good working knowledge of computers and the programs necessary to complete the billing and collection of the City utilities bills and other utility funds. The person filling this position shall also have a high school diploma or equivalent, the ability to work well with co-workers and the public, good working knowledge of computers and the programs necessary, background in business, accounting, and record keeping with a minimum of **four (4) years'** experience and must be able to be bonded. Additionally, the person filling this position shall have good written and verbal communication skills in dealing with the public and experience with GIS mapping or willingness to learn.

A City Collector's salary shall be the Department Head's salary as set forth in **Section 12-1-37** or as established by the City Council. The salary for this position shall be paid by the City's Electric utility fund. The City Collector shall be responsible for the billing of and the collection of all City utility bills and other utility funds. The City Collector shall preserve all warrants returned to the City Collector and the City Collector shall keep books and accounts in the manner that the City Council may prescribe. All of the City Collector's warrants, books and vouchers and all papers pertaining to the City Collector's office, may be examined at any time by the Mayor or any member or committee of the Council. Weekly and more often if required by the Council, the City Collector shall pay over to the City Treasurer all money collected by the City Collector from all utility funds whatsoever, taking the City Treasurer's receipt, therefore. All moneys collected by the City Collector shall be deposited into a clearing account at an approved local bank by the City Treasurer.

The position of Deputy City Collector shall report to the City Collector.
(Ord. No. 18-01; 03-06-18)

1-3-57 **REPORT; ANNUAL STATEMENT.** The City Collector shall make a monthly written report to the Council or to any other officer designated by the Council, of all utility funds collected by the City Collector, the account whereon collected, or of any other official matter. Between the **fifteenth (15th)** and the **thirtieth (30th)** of May of each year, the City Collector shall file a statement of (1) all utility funds collected by the City Collector during the year, (2) the particular warrant, special assessment, or account on which collected, (3) the balance of money uncollected on all warrants in the City Collector's possession, and (4) the balance remaining uncollected at the time of return on all warrants which the City Collector returned to the City Collector's office during the preceding fiscal year. The City Treasurer shall publish the statement at least once, within **six (6) months**, in **one (1)** or more newspapers published in, or with a general circulation in the City. **(Ord. No. 18-01; 03-06-18)**

1-3-58 **DETENTION OF PUBLIC MONEY.** The City Collector is prohibited from keeping the City's money in the City Collector's possession, or in the possession of any other person beyond the time prescribed for its payment to the City Treasurer. Any violation of this provision shall subject the City Collector to immediate removal from office. **(Ord. No. 18-01; 03-06-18)**

1-3-59 **OTHER DUTIES.** In addition to the foregoing duties, the City Collector shall perform all such other duties pertaining to his office as are or may be imposed upon him by law or resolution or ordinance of the City Council, including but not limited to the following:

(A)

Responsibilities.

- (1) Enforce the city ordinances concerning the billing and collection of city utility charges and deposit requirements.
- (2) Supervise Department employees to ensure the accurate, timely billing, collecting and reporting of city utility charges. Monitor hours worked by Department employees, schedule vacation and benefit hours off and sign timesheets.
- (3) Monitor daily activities of the Billing/Collections Department including maintaining files concerning billing of utilities and collecting of payments and maintaining a working computer accounting system with a back-up tape stored in a fire-proof box in the City's vault.
- (4) Maintain office equipment.
- (5) Perform credit checks for new customers in the absence of the Billing Clerk.
- (6) Report and have available any information requested by the City Council related to city utility billing and receipts.
- (7) Accept and process utility payments in the office and from each bank on an as-needed basis.
- (8) Prepare and mail material sale bills for all departments.
- (9) Receive and process income from tapping fees, material sales, deposits, reconnect fees and bulk water sales.
- (10) Generate a monthly non-payment shut-off list and work with the electric and water departments for disconnection and reconnection of utilities.
- (11) Calculate a budget amount for customers requesting a monthly-average billing.
- (12) Review customer accounts and perform computer functions as needed: posting payments, balancing accounts, etc.
- (13) Transfer all funds received to the Treasurer's office with proper documentation as required by the City Ordinance.
- (14) Generate monthly reports for the Treasurer's office to maintain accurate information between the offices.
- (15) Correspond with the State's Attorney concerning returned checks.
- (16) Send a list of delinquent accounts to the collection agency as needed.
- (17) File a lien on property for utility charges as needed.

- (18) Maintain the cash register and petty cash account.
- (19) Compute ACH transactions monthly via the internet.
- (20) Process payments made with credit cards.
- (21) Calculate the PCA multiplier and amount received each month.
- (22) Maintain an invoice report, PCA report, deposit report, monies collected and accounts receivable report and shut-off report each month.
- (23) Maintain records of bulk water sold.
- (24) Communicate with ERBA and other charities concerning customer accounts. Calculate and post ERBA payments to customers' accounts and maintain credit availability information.
- (25) Correspond with customers and/or landlords as needed concerning returned checks, ERBA or charity payments, utility shut-off or turn-on due to non-payment, non-payment of final bills, deposit requirements, budget accounts, automatic withdrawal (ACH) customers, etc.
- (26) Generate mass mailings to ACH and budget customers as needed.
- (27) Sign checks requiring **three (3) signatures** as requested by the City Treasurer.

(B)

Other Duties.

- (1) Assist Finance Committee Chairman and City Treasurer in preparing the yearly budget for the Department.
- (2) Approve bills for the department.
- (3) Collect money from Parks Department Head received in the park vending machines.
- (4) Maintain emergency management information from the County, available on a disc or a printed copy.
- (5) Update and maintain the City's web page.
- (6) Fulfill the duties of a FOIA officer including registering with the Illinois Attorney General's office and taking online training.
- (7) Fulfill the duties of a Notary Public.
- (8) Complete questionnaires related to City business.
- (9) Send and receive correspondence as needed for the Mayor and City Council.
- (10) Temporarily perform duties of the City Clerk in the Clerk's absence.
- (11) Update and distribute information for the GIS mapping.
- (12) Maintain the emergency alert system.
- (13) Maintain various files related to this office.
- (14) Coordinate efforts for the successful completion of housing or any other grants. This may include city-wide surveys, local interviews of customers, mass mailings, etc.
- (15) Act as ERBA Vendor: Receiving low-income energy assistance funds from ERBA to pay on customers' accounts.
- (16) Process mail coming into this Department.
- (17) Perform other duties including answering the phone and radio, distributing JULIE reports, faxing and copying reports, maintaining contact with the electric, water and sewer departments, problem resolution with customers' utilities and performing other duties as needed for the professional, efficient operation of the City's office.

(Ord. No. 19-09; 07-16-19)

1-3-60 **DEPUTY CITY COLLECTOR.** There is hereby created the office of Deputy City Collector. The Deputy City Collector shall be appointed by the Mayor by and with the advice and consent of the City Council. Any person filling this position must have a high school diploma or equivalent, good working knowledge of computers and programs necessary to complete the billing and collection of the City utilities and other office related matters, good working background in business, accounting and

record keeping with a minimum of **four (4) years'** experience, experience with GIS mapping or willingness to learn, professional written and verbal communication skills, the ability to work well with co-workers and the public in a cooperative, diplomatic and professional manner, and must be able to be bonded.

(A)

Responsibilities.

- (1) Temporarily perform duties of the City Collector or City Clerk in their absence.
- (2) Accept and process utility income including utility payments, tapping fees, deposits, reconnect fees, bulk water sales and material sale payments for the water, wastewater and electric departments.
- (3) Fulfill obligation of utility non-payment disconnections and reconnections as required by City ordinance.
- (4) Maintain utility counts for customers for budget billing, ACH, ERBA and charity assistance.
- (5) Transfer all funds to the Treasurer's office with proper documentation as required by the City Ordinance.
- (6) Generate monthly reports for the Treasurer's office to maintain accurate information between the offices.
- (7) Correspond with the State's Attorney, collection agency and file liens on property as needed.
- (8) Maintain the cash register and petty cash account.
- (9) Coordinate efforts for the successful completion of housing or any other grants. This may include city-wide surveys, local interviews of customers, mass mailings, etc.
- (10) Process mail coming into the office.
- (11) Make courtesy phone calls to businesses when an emergency water or electric interruption is necessary.
- (12) Provide information to Image Squared Marketing.
- (13) Perform secretarial duties for the Mayor and City Council as needed.
- (14) May be appointed Deputy City Clerk and be obligated to perform the City Clerk's duties in the Clerk's absence.
- (15) May be appointed FOIA Officer.

(B)

Other Duties. Perform other duties including but not limited to answering the phone and radio, distributing JULIE reports, faxing and copying reports, maintaining contact with the electric, water and sewer departments, problem resolution with customers and the public, and performing other duties as needed for the professional, efficient operation of the City's office.

(Ord. No. 18-01; 03-06-18)

1-3-61

RESERVED.

DIVISION VI - CITY ENGINEER

1-3-62

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

1-3-63

DUTIES - SALARY. The City Engineer shall make and submit plans, estimates and specifications for any public work which may be proposed or ordered by the City Council. The Engineer shall also examine all public works under his or her charge and see that the plans, estimates

and specifications for the same are properly executed. The Engineer shall receive reasonable compensation for his services and the same will be provided for in the annual appropriation ordinance on an estimated basis. (See 65 ILCS Sec. 5/3.1-30-5)

1-3-64 **RESERVED.**

DIVISION VII – CITY DEPARTMENTS

1-3-65 **DEPARTMENTS CREATED.** The business and affairs of the City shall be conducted by the following City departments:

- (A) Electric Department;
- (B) Police Department;
- (C) Street and Alley Department;
- (D) Parks, Cemetery, and Pool Department;
- (E) Wastewater Department;
- (F) Water Department;
- (G) Billing/Collections Department.

(Ord. No. 11-12; 10-04-11)

1-3-66 **DEPARTMENT HEADS.** The Superintendent or individual in charge of each of the departments shall be responsible for the operation of the respective department as provided in this Code.

1-3-67 **APPOINTMENT.** The Mayor, with the advice and consent of the City Council, shall, with the exception of the Police Department, appoint a superintendent or individual who shall be responsible for the operation of the respective department, provided that all such appointees shall be regular employees engaged in the performance of their work. (See Section 1-3-5)

1-3-68 **EMPLOYEES OF DEPARTMENTS.** The City Council shall designate the number of employees in each department and define the duties and period of employment of each. The heads of the various departments, with the advice and consent of the City Council, shall procure such employees for the operation of the various departments and shall have authority to remove any employee. However, such removal may be rescinded by the City Council and the removed employee reinstated by the affirmative vote of the majority of the City Council.

1-3-69 **RESERVED.**

DIVISION VIII – ECONOMIC DEVELOPMENT COORDINATOR

1-3-70 **CREATION OF OFFICE.** There is hereby created the office of Economic Development Coordinator. The Economic Development Coordinator shall be appointed by the Mayor with the advice and consent of the City Council.

1-3-71 **QUALIFICATIONS.** The Economic Development Coordinator shall have basic technology skills, including familiarity with Microsoft Office Suite, have experience in business, sales, marketing, or related fields and preferably possess a bachelor's degree.

1-3-72 **JOB DESCRIPTIONS.** The position of Economic Development Coordinator shall be a full-time position with general responsibilities including coordinating and implementing projects and programs that support commercial, office and industrial development; business attraction; business retention; development of public facilities and infrastructure; small business development initiatives and other economic development in the City and the County.

1-3-73 **DUTIES.** The Economic Development Coordinator shall perform the following essential function and duties:

- (A) Attend local, regional and national economic development meetings;
- (B) Proactively net and develop relations with key job providers;
- (C) Promote the City and County economic strengths and advantages to potential business in order to create and retain job opportunities;
- (D) Administrator and process Tax Increments Financing (TIF), Enterprise Zone, and other incentive applications and projects;
- (E) Research and apply for public and private grants and other incentives;
- (F) Schedule, organize and conduct meetings with community stakeholders;
- (G) Effectively collaborate with the City, Jasper County, Jasper County Chamber of Commerce, Unit #1 School District, JEDI, and area businesses in order to identify needs and opportunities in our local economy.

1-3-74 **SALARY.** The Economic Development Coordinator shall be appointed full time position. The Economic Development Coordinator salary shall be subject to negotiation and shall be evidenced by separate agreement between the City and the Economic Development Coordinator.

(Ord. No. 18-12; 08-07-18)

ARTICLE IV – OFFICIAL SALARIES

1-4-1 SALARIES OF CITY OFFICIALS. Effective **May 1, 2021** the following salaries are hereby established for elected City Officials:

(A) **Mayor.** The Mayor shall receive **Sixteen Thousand Dollars (\$16,000.00)** per year.

(B) **Alderman.** Each Alderman shall receive **Eight Thousand Dollars (\$8,000.00)** per year, payable quarterly.

(C) **Clerk.** The City Clerk shall be a part-time elected position for which the City Clerk shall receive **Eighteen Thousand Dollars (\$18,000.00)** per year. For said salary, the City Clerk shall work a minimum of **sixteen (16) hours** per week in the City Clerk's office and shall attend the bi-monthly City Council meetings. The City Clerk shall also perform such other duties as the City may request from time to time. Additional compensation for hours worked in excess of **sixteen (16) hours** per week shall be at the City's established rate for part-time employees.

(D) **Treasurer.** The City Treasurer shall be an appointed full-time position. The City Treasurer salary will be subject to negotiation and shall be evidenced by separate agreement between the City and the City Treasurer.

(E) **Zoning Board Chairman.** The Zoning Board Chairman shall receive **Three Thousand Dollars (\$3,000.00)** per year, payable quarterly.

(F) **Zoning Board Member.** Each Zoning Board Member shall receive **Seventy-Five Dollars (\$75.00)** per meeting attended, each quarter.

(Ord. No. 20-14; 10-20-20)

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

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

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

ARTICLE V - WARDS

1-5-1 **WARDS ESTABLISHED.** The City of Newton is hereby districted into **three** (3) wards, the boundaries being as follows:

(A) **Ward One.** Beginning at the center point of the intersection of Van Buren Street and Decatur Street, thence South along the center line of Van Buren Street to the center line of Russel Street, thence East along the center line of Russel Street to the center line of Van Buren Street, thence South along the center line of Van Buren Street to the Corporate limits of the City of Newton, thence East along said Corporate limits, thence North along said Corporate limits to the South Right-of-Way Line of Illinois Route 130, thence Southeasterly along said South Right-of-Way line and Corporate limits, thence Northeasterly to the North Right-of-Way line of Illinois Route 130, thence North along said Corporate limits, thence East along said Corporate limits, thence North along said Corporate limits, thence West along said Corporate limits, thence North along said Corporate limits, thence East along said Corporate limits to the centerline of Ochs Avenue, thence North along the centerline of Ochs Avenue to the Westerly Right-of-Way of the Indiana Railroad, thence Southeasterly along said Westerly Right-of-Way and said Corporate limits, thence West along said Corporate limits to the centerline of Ochs Avenue, thence South along the centerline of Ochs Avenue, thence East along said Corporate limits to the Southeast Corner of the City of Newton, thence North along said Corporate limits, thence West along said Corporate limits to the Easterly Right-of-Way of the Indiana Railroad, thence Northwesterly along said Easterly Right-of-Way to the centerline of Ochs Avenue, thence North along said centerline of Ochs Avenue, thence West along said Corporate limits to said Easterly Right-of-Way of the Indiana Railroad, thence Northwesterly along said Easterly Right-of-Way and said Corporate limits, thence West along said Corporate limits, thence North along said Corporate limits to the centerline of Wilson Street, thence East along the centerline of Wilson Street to said Corporate limits, thence North along said Corporate limits to the Westerly Right-of-Way of the Indiana Railroad, thence Southeasterly along said Westerly Right-of-Way and said Corporate limits, thence East along said Corporate limits, thence North along said Corporate limits, thence East along said Corporate limits to the centerline of Ochs Avenue, thence North along the centerline of Ochs Avenue to the centerline of Wilson Street, thence North along the centerline of Scott Street, thence East along said Corporate limits, thence North along said Corporate limits, thence East along said Corporate limits, thence North along said Corporate limits, thence East along said Corporate limits, thence North along said Corporate limits to the centerline of Hillcrest Drive, thence East along the centerline of Hillcrest Drive to said Corporate limits, thence North along said Corporate limits, thence West along said Corporate limits to the centerline of Scott Street, thence North along the centerline of Scott Street to the centerline of the Indiana Railroad, thence in a Northeasterly direction 1665.55 feet to the Quarter Section Line, thence North along said Corporate limits, thence East along said Corporate limits, thence North along said Corporate limits to the Northeast Corner of the City of Newton, thence in a Westerly direction along the Corporate limits and the south bank of the Embarras River to a point where the northerly extension of the centerline of Van Buren Street intersects the south bank of the Embarras River, thence South along the centerline of Van Buren Street to the point of beginning.

(B) **Ward Two.** Beginning at the center point of the intersection of Decatur Street and Van Buren Street, thence West along the centerline of Decatur Street to the centerline of Stanley Street, thence South along the centerline of Stanley Street to the centerline of Fairground Street, thence West along the centerline of Fairground Street to the centerline of Hutton Drive, thence West along the centerline of Cloverdale Road to the Corporate limits of the City of Newton, thence North along the Corporate limits to the North Right-of-Way Line of the Indiana Railroad, thence West along said North Right-of-Way to the West Line of Illinois Drive and said Corporate limits, thence North along the West Line of Illinois Drive and said Corporate limits to the North Right-of-Way Line of Illinois Route 33, thence East along the North Right-of-Way of Illinois Route 33 to the centerline of Township Road 1000 East, thence North along the Centerline of Township Road 1000E to the Corporate limits of the City of Newton, thence East along said Corporate limits to the Northeast Corner of the Brookside Addition, thence South along the East Line of the Brookside Addition to the North Right-of-Way of Illinois Route 33, thence East along the North Right-of-Way of Illinois Route 33 to the Corporate limits, thence North 630 feet along said Corporate limits, thence East 414.71 feet along said Corporate limits, thence South 530 feet along

said Corporate limits, thence West 162 feet along said Corporate limits, thence South 100 feet along said Corporate limits to the North Right-of-Way of Illinois Route 33, thence East 371 feet along the North Right-of-Way of Illinois Route 33, thence North 992 feet along said Corporate limits, thence East 987.5 feet to the West Line of Acklin Acres Subdivision in the City of Newton, thence North along the West line of Acklin Acres Subdivision to the Northwest Corner of the City of Newton, thence East along said Corporate limits to the Southeast Corner of Section 35, T7N, R9E, 3rd P.M., thence North along the East line of said Section 35 to said Corporate limits, thence West along said Corporate limits, thence North along said Corporate limits, thence East along said Corporate limits, thence South along said Corporate limits, thence East along said Corporate limits, thence North along said Corporate limits, thence East along said Corporate limits to the Northeast Corner of the St. Thomas Cemetery, thence in an Easterly direction along said Corporate limits along the South Bank of the Embarras River to a point where the Northerly extension of the centerline of Van Buren Street intersects the South Bank of the Embarras River, thence South to the Point of Beginning.

(C) **Ward Three.** Beginning at the center point of the intersection of Van Buren Street and Decatur Street, thence South along the centerline of Van Buren Street to the centerline of Russel Street, thence West along the centerline of Russel Street to the centerline of Jackson Street, thence North along the centerline of Jackson Street to the Corporate limits of the City of Newton, thence West along said Corporate limits, thence South along said Corporate limits, thence West along said Corporate limits, thence South along said Corporate limits, thence West along said Corporate limits, thence North along said Corporate limits, thence West along said Corporate limits, thence North along said Corporate limits, thence West along said Corporate limits to the centerline of Liberty Avenue, thence North along the centerline of Liberty Avenue to said Corporate limits, thence East along said Corporate limits, thence North along said Corporate limits, thence West along said Corporate limits, thence North along said Corporate limits to the centerline of Foster Street, thence West along the centerline of Foster Street to the centerline of Hutton Drive, thence North along the centerline of Hutton Drive to said Corporate limits, thence West along said Corporate limits, thence North along said Corporate limits to the centerline of Cloverdale Road, thence East along the centerline of Cloverdale Road to the centerline of Hutton Drive, thence East along the centerline of Fairground Street to the centerline of Stanley Street, thence North along the centerline of Stanley Street to the centerline of Decatur Street, thence East along the centerline of Decatur Street to Point of Beginning.

Made a part hereof and incorporated herein by reference to a plat of the City of Newton on file in the office of the City Clerk, with Wards One, Ward Two and Ward Three outlined as described herein.

(Ord. No. 14-12; 07-15-14)

ARTICLE VI – MEETING PROCEDURES

DIVISION I – RECORDING CLOSED MEETINGS

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

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

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

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

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

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

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

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

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

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

DIVISION II – REMOTE MEETING PARTICIPATION

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

1-6-12 **DEFINITION OF MEETING.** The term “meeting” shall mean “any gathering, whether in person or by video or audio conference, telephone calls, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other means of contemporary interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business” or such other definition as shall be contained within the state statutes.

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

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

ARTICLE VII - MANAGEMENT ASSOCIATION

1-7-1 **PARTICIPATION.** The City Council does hereby authorize and approve membership in the Illinois Municipal League Risk Management Association and directs the Mayor and Clerk to execute an Intergovernmental Cooperation Contract with the Illinois Municipal League Risk Management Association for membership on an annual basis and each year thereafter unless this ordinance is repealed.

1-7-2 **CONTRIBUTION.** Each member hereby agrees to contribute to the Association a sum of money to be determined by the Association at the time of its annual renewal based on the needs of the Association and the loss experience of the Member, which sum shall constitute the cost of the Member's contribution for membership in the Association.

(Ord. No. 17-10; 12-05-17)

ADDENDUM "A"

GOVERNMENTAL UNIT
REMOTE ATTENDANCE POLICY

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

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

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

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

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

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

ADDENDUM "B"

NOTICE OF REQUEST FOR PLACEMENT UPON CITY COUNCIL AGENDA (NOT REQUIRED)

I, _____ (name), do hereby request placement upon the agenda of the City Council's regularly scheduled meeting on _____ (date) to address the Council with regards to:

(short explanation of proposed business)

Dated this _____ (day) of _____ (month), _____ (year).

Sincerely,

APPLICANT

Printed Name

Address

Telephone Number

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

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

NAME OF APPLICANT: _____

NAME OF COMPANION: _____

ADDRESS: _____

TELEPHONE: _____ CELL NO.: _____

DATE OF NEEDED AUXILIARY AID OR SERVICE: _____

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

DATE: _____

SIGNED: _____

ADDENDUM "C"

TRAVEL, MEAL, AND LODGING EXPENSE REIMBURSEMENT REQUEST FORM

Before an expense for travel, meals, or lodging may be approved under the Municipal Code, the following minimum documentation must first be submitted, in writing, to the corporate authorities of this Municipality:

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

Name of the Employee or Officer

Job Title/Office

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

Name of Event or Program

Date(s) of Event or Program

Location of Event or Program

Purpose of Event or Program

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

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

Employee/Officer Signature

Date

ADDENDUM "D"

GOVERNMENTAL UNIT
 REMOTE ATTENDANCE POLICY
 DURING A DISASTER DECLARATION

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

(B) **Conditions.** An open or closed meeting subject to the Open Meetings Act may be conducted by audio or video conference, without the physical presence of a quorum of the members, so long as the following conditions are met:

- (1) the Governor of the State of Illinois or the Director of the Illinois Department of Public Health has issued a disaster declaration related to public health concerns because of a disaster as defined in Section 4 of the Illinois Emergency Management Agency Act, and all or part of the jurisdiction of the Village is covered by the disaster area;
- (2) the Mayor determines that an in-person meeting or a meeting conducted under this policy is not practical or prudent because of the disaster;
- (3) all members of the body participating in the meeting, wherever their physical location, shall be verified and can hear one another and can hear all discussion and testimony;
- (4) for open meetings, members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the disaster, including the issued disaster declaration, in which case the Village must make alternative arrangements and provide notice pursuant to the policy of such alternative arrangements in a manner to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link;
- (5) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the disaster, including the issued disaster declaration; and
- (6) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

(C) **Notice.** Except in the event of a bona fide emergency, **forty-eight (48) hours'** notice shall be given of a meeting to be held pursuant to this policy. Notice shall be given to all members of the Covered Group, shall be posted on the website of the Village, and shall also be provided to any news media who has requested notice of meetings pursuant to subsection (a) of Section 2.02 of the Open Meetings Act. If the Village declares a bona fide emergency:

- (1) Notice shall be given pursuant to subsection (a) of Section 2.02 of the Open Meetings Act, and the presiding officer shall state the nature of the emergency at the beginning of the meeting;
- (2) The Village must comply with the verbatim recording requirements set forth in Section 2.06 of the Open Meetings Act.

(D) **Quorum.** Each member of the body participating in a meeting by audio or video conference for a meeting held pursuant to this policy is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(E) **Record.** A Covered Group holding open meetings under this policy must also keep a verbatim record of all its meetings in the form of an audio or video recording. Verbatim records made under this paragraph shall be made available to the public under, and are otherwise subject to, the provisions of Section 2.06 of the Open Meetings Act.

(F) **Costs.** The Village shall bear all costs associated with compliance with this policy.

CHAPTER 3 - ANIMALS

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CHAPTER 3

ANIMALS

ARTICLE I - GENERAL REGULATIONS

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

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

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

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

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

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

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

"DANGEROUS DOG" means:

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

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

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

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

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

"FERAL CAT" means a cat that:

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

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

(510 ILCS 5/2.11b)

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

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

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

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

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

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

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

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

"RECKLESS DOG OWNER". "Reckless dog owner" means a person who owns a dog that while anywhere other than upon the property of the owner, and without justification, kills another dog that results in that dog being deemed a dangerous dog under **510 ILCS 5/15.1** and who knowingly allows the dog to violate **510 ICLS 5/9** on two occasions within **twelve (12) months** of the incident for which the dog was deemed dangerous or is involved in another incident that results in the dog being deemed dangerous on a second occasion within **twenty-four (24) months** of the original dangerous determination.

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

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

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

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

"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. **(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. **(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. (65 ILCS 5/11-5-6)**

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

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

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

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

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

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

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

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

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

(B) **Limitation; Exception.**

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

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

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

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

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

- (1) It shall be unlawful to keep roosters within City limits.
- (2) Allowable animals shall be deemed Hobby Animals.
- (3) The number of allowable fowl shall be no less than **two (2)**, and no more than **six (6)**.
- (4) The number of rabbits shall not exceed **ten (10)**.
- (5) Any structures housing hobby animals shall be termed an "accessory structure".
- (6) Applicants shall register with City Hall obtaining annual permit and have proof of registration on-site. Registration fee of **Twenty-Five Dollars (\$25.00)** per year.
- (7) Care for Hobby Animals shall follow the provisions set forth in this Chapter.
 - (a) Hobby Animals shall be kept in such a way so as not to cause a nuisance.
 - (b) Hobby Animal runs, yards and coops shall be constructed and maintained to reasonably prevent the collection of standing water; and shall be cleaned of droppings, uneaten or discarded feed, feathers, and other waste with such frequency as is necessary to ensure the yard, coop and pen do not become nuisances.
 - (i) Coops, pens and yards shall be large enough to provide at least **four (4) square feet** per animal.
 - (ii) The coop must be built to provide ventilation, shade, protection from precipitation, protection from cold weather and to be secure from predators, wild birds and rodents.
 - (iii) Openings in windows and doors must be covered by wire mesh or screens to deter predators.
 - (iv) Access doors must be sized and placed for ease of cleaning.
 - (v) The enclosed run must be attached to the coop or must surround the coop. The sides of the run must be made of fencing or wire mesh that discourages predators.
 - (vi) The run must be enclosed on all sides, including the top or roof plane.
 - (vii) Odors from pens, manure or related substances shall not be detectable from property lines. Manure must be stored and disposed of. Manure may be composted. All manure not composted must be removed from property regularly.
 - (c) Licenses for coops must be obtained and shall meet the rules of this Chapter where applicable.
 - (i) Prior to a license being granted to an applicant, the applicant must show proof of notice to all adjacent

- landowners except landowners that are municipalities or utilities.
- (ii) Coops over **one hundred twenty (120) square feet** will require a building permit.
 - (iii) A license shall not be granted unless the applicant has obtained all necessary building permits and can show proof that a pen, yard and coop that comply with this Section have been erected.
 - (iv) The chicken coop and run shall be located in the rear of the residential structure. The pen, coop and run are allowed in the rear yard, but not the side or front yards.
 - (v) The coop and run shall be located at least **five (5) feet** from the property line and at least **twenty-five (25) feet** from any dwelling.
 - (vi) Coop licenses shall not run with the land.
 - (vii) Licenses will only be granted to persons who reside on parcels with single-family dwellings. An applicant who lives in an apartment, multi-family units or condominium building is not eligible to receive a Hobby Animal license.
 - (viii) The City may deny a license to any person who:
 - a. Owes money to the City; or
 - b. has, in the last **five (5) years** prior to application for a license under this Section been convicted or plead guilty to any code violation of animals, nuisance, noise, property maintenance or zoning.
 - (ix) If the licensee is found to be in violation of this Section or of Cruelty to Animals, the license will be immediately and permanently revoked.
 - (x) Applications shall be submitted to the City Clerk's office.
 - (xi) No person shall slaughter any Hobby Animal within City limits in view of the public.
 - (xii) No Hobby Animal shall be permitted to run at large. All animals shall be kept in a designated coop or run. Hobby Animals may be allowed to exercise in a rear yard with a **six (6) foot** or higher fence with supervision.
 - (xiii) No lawfully owned cat or dog shall be deemed dangerous, vicious or otherwise punished for attacking or killing any Hobby Animal allowed to run astray whether by accident or design.
 - (xiv) Any resident currently owning a designated Hobby Animal shall have **ninety (90) days** from enactment of this Section to comply with all the provisions set forth.
 - (xv) If the licensee is found to be in violation of these standards **three (3)** or more times, the license will be immediately and permanently revoked.
 - (xvi) Pens, coops and runs not maintained according to this Section shall be deemed a public nuisance and the license will be immediately and permanently revoked.
 - (xvii) Any person found to be in violation of this Section shall be fined not less than **One Hundred Dollars (\$100.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day an owner is not compliant with this Section shall constitute a separate offense.

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

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

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

ARTICLE II - DOGS

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

3-2-2 **RABIES INOCULATION.**

(A) **Dogs.** Every owner of a dog **four (4) months** or more of age shall have each dog inoculated against rabies by a licensed veterinarian. Every dog shall have a second rabies vaccination within **one (1) year** of the first. Terms of subsequent vaccine administration and duration of immunity must be in compliance with USDA licenses of vaccines used.

(B) **Cats.** Every owner of a cat that is a companion animal and is **four (4) months** or more of age shall have each cat inoculated against rabies by a licensed veterinarian. Every cat that is a companion animal shall have a second rabies vaccination within **one (1) year** of the first. Terms of subsequent vaccine administration and duration of immunity must be in compliance with USDA licenses of vaccines used. This subsection (B) does not apply to feral cats; however, if a feral cat is presented to a licensed veterinarian for sterilization, the feral cat shall be inoculated against rabies, unless the person presenting the feral cat for care provides an inoculation certificate showing that the feral cat has been inoculated against rabies, and the cost of the inoculation shall be paid by the person presenting the feral cat to a licensed veterinarian for care.

(C) **Duties of Veterinarian.** A veterinarian immunizing a dog, cat, or ferret against rabies shall provide the Administrator of the county in which the dog, cat, or ferret resides with a certificate of immunization. Evidence of such rabies inoculation shall be entered on a certificate the form of which shall be approved by the Council and which shall contain the microchip number of the dog, cat, or ferret if it has one and which shall be signed by the licensed veterinarian administering the vaccine. Only one dog, cat, or ferret shall be included on each certificate.

(D) **Dog Tags Issued.** Veterinarians who inoculate a dog shall procure from the County Animal Control in the county where their office is located serially numbered tags, one to be issued with each inoculation certificate. The Council shall cause a rabies inoculation tag to be issued, at a fee established by the Council for each dog inoculated against rabies.

(E) **Cat Tags Issued.** A veterinarian who inoculates a cat that is a companion animal shall issue an inoculation certificate to the owner which shall comply with any registration requirements adopted by the County under **510 ILCS 5/3.**
(See 510 ILCS 5/8)

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

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

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

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

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

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

3-2-4 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.

3-2-5 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.

3-2-6 IMPOUNDMENT OF DOGS WHICH HAVE BITTEN PERSONS. Any dog which shall have bitten or otherwise injured any person so as to cause an abrasion of the skin shall be immediately taken, impounded and kept separated from other dogs for **ten (10) days**. If, during that period, such dog develops symptoms of illness, a veterinarian shall be called to diagnose its condition. If the symptoms disclosed are such as to indicate the presence of rabies, such dog shall be destroyed in such a manner, however, as to preserve intact the head, which shall thereupon be detached and immediately sent to the diagnostic laboratory of the Department of Agriculture. In case such dog cannot be safely taken up and impounded, it may be shot, care being taken to preserve the head intact which shall thereupon be immediately detached and be delivered to the diagnostic laboratory of the Department of Agriculture.

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

3-2-7 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.

3-2-8 REDEMPTION OF IMPOUNDED ANIMALS. The owner of any animal impounded under this Chapter may redeem the same by paying all the costs and charges assessed, if any, that have accrued up to the time of making redemption and on paying the same; it shall be the duty of the authorities to release the animal from the pound and deliver it to its owner or certify the release thereof to any County authority having possession of the animal.

3-2-9 CITY POUND DESIGNATED. The City Council shall designate a City Pound.

3-2-10 DISPOSITION OF DOGS DEEMED NUISANCES. Any dog which may, in any manner, continually disturb the quiet of any person or neighborhood or shall destroy or in any manner injure any animal, plant, shrub or other property not on the premises of its owner or keeper is hereby declared to be a nuisance, and such dog shall be taken up and impounded and may be redeemed or disposed of in the manner provided for under this Code.

3-2-11 **DANGEROUS DOG - FEMALE DOG AT LARGE.** It shall be unlawful for the owner or keeper of any vicious or dangerous dog as defined in **Section 3-1-2** or of any female dog, while in heat, to run at large within the limits of this City.

3-2-12 **FEMALE DOG WITH OTHER DOGS.** No person in control or possession of a female dog or permitting the same to remain upon his or her premises, shall permit any such female dog, while in heat, to consort with any other dog or dogs in an indecent manner in any place of public view, whether upon his own or any other premises.

3-2-13 **CONFINEMENT IN MOTOR VEHICLE.** No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible. **(510 ILCS 70/7.1)**

3-2-14 **VICIOUS ANIMALS PROHIBITED.** It shall be unlawful for any person to bring or transfer into the incorporated area of the City any dog or animal that has been declared "vicious" by any other unit of local government.

(65 ILCS 5/11-1-1 and 5/11-20-9 or 510 ILCS Animals)

ARTICLE III - VICIOUS AND DANGEROUS DOGS

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

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

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

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

- (B) **"Dangerous dog": (See Section 3-1-2)**
- (C) **"Enclosure": (See Section 3-1-2)**
- (D) **"Impounded"** means taken into the custody of the public pound in the City or town where the vicious dog is found.
- (E) **"Found to Be Vicious Dog"** means:
- (1) that the County Veterinarian, Animal Control Warden, or a law enforcement officer has conducted an investigation and made a finding in writing that the dog is a vicious dog as defined in **Section 3-1-2** and, based on that finding, the County Veterinarian, or the Animal Control Warden has declared in writing that the dog is a vicious dog or
 - (2) that the circuit court has found the dog to be a vicious dog as defined in **Section 3-1-2** and has entered an order based on that finding.

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IV – TETHERING

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

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

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

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

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

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

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

(G) No more than **two (2) dogs** may be tethered on one residential property.

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

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

(J) A properly constructed kennel, of a height and strength, that prevents the dog from jumping, climbing, or digging out, and running at large, is acceptable containment if the following conditions are met. The dimensions of the kennel shall be dictated by the size of the dog. The kennel shall have a doghouse large enough for the dog to stand and turn around, with roof, four sides, and solid floor **three (3) inches** above the ground. The acceptable kennel size is **one hundred twenty-five (125) square feet** per dog of under **fifty (50) pounds**.

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

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

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

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

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

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

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

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

(M) No dog shall be tethered longer than **ten (10) continuous hours** or **twelve (12) hours** in any **twenty-four (24) hour** period.

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

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

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

CHAPTER 6 – BUILDING REGULATIONS

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CHAPTER 6

BUILDING REGULATIONS

ARTICLE I – BUILDING CODES

6-1-1 **ADOPTION OF INTERNATIONAL RESIDENTIAL CODE.** A certain document, **one (1) copy** of which was heretofore placed on file in the office of the City Clerk, being marked and designated the International Residential Code, 2015 edition, as published by the International Code Council, Incorporated, is hereby adopted as the Building Regulations of the City, for the control of building one- and two-family dwelling structures as herein defined, and each and all of the regulations, provisions, penalties, conditions and terms of the International Residential Code, 2015 edition, are hereby referred to, adopted and made a part hereof, as if fully set forth in this Chapter, subject to the modifications, exceptions and additional regulations set out in **Section 6-1-2** hereof. **(Ord. No. 22-13; 07-05-22)**

6-1-2 **AMENDMENT TO CODE.** Modification to the text of the International Residential Code, 2015 edition, are as follows:

(A) **Section 6-1.1.** Title: Insert “City of Newton” for (name of jurisdiction).

(B) **Section 6-1.3.** Purpose. Is hereby deleted and the following inserted in lieu thereof:

PURPOSES. The purposes of these regulations are to protect the health, safety and general welfare of the persons and property of the citizens of Newton, Illinois, as well as the property and rights-of-way of the City, by determining whether any proposed construction, placement, alteration, removal or demolition of any building, mobile home or other structure within the City limits will be done in compliance with the City code, specifically including but not limited to **Chapter 15 - Flood Plain Code** and **Chapter 34 - Subdivision Code** of the City Code, applicable State and Federal Codes, and will not damage or encroach upon City property, City utilities or City rights-of-way or interfere with or cause drainage or flooding problems.

(C) **Section 103.** Department of Building Safety is hereby deleted and the following is inserted in lieu thereof:

Building Permit Committee.

(A) There is hereby created a committee of the City Council to be known as the “Building Permit Committee,” said committee to be appointed by the Mayor with the advice and consent of the City Council and to consist of not less than **three (3) members** of the Council. Such committee shall be appointed annually and shall serve until their successors are appointed.

(B) The Building Permit Committee is hereby directed and empowered to adopt rules and regulations for the use of the Building Official in his or her capacity as the “Building Official” in order that enforcement of said regulations requiring the issuance of building permits under the terms of this Chapter shall be uniformly enforced upon all of the residents of the City.

(C) The Building Permit Committee is hereby directed to adopt said rules and regulations after presenting the same to the Mayor and the City Council. If the Mayor and City Council shall approve said rules and regulations, the committee is directed to have the same printed or mimeographed in book or pamphlet form for the use of the Building Official of the City.

(D) The Building Permit Committee is hereby authorized from time to time to make such recommendations for changes and alterations in said rules and regulations as may best carry out and implement the spirit of this Chapter in order that damage to property and persons in the City shall be minimized.

(D) Section 108.2. Schedule of permit fees is hereby deleted and the following inserted in lieu thereof:

Schedule of permit fees. On buildings, structures, electrical, and mechanical a fee for each permit shall be paid as required, in accordance with the schedule as established by the Building Permit Committee.

Starting construction without a valid permit: The fee shall be **One Hundred Dollars (\$100.00)** per day for every day without a valid permit.

Re-inspections fee: When additional inspections are necessary, due to inaccurate, incomplete, incorrect information or failure to make necessary repairs, or faulty installations, a charge of **Fifty Dollars (\$50.00)** shall be made for each such inspection.

Fee for Appeal: The fee for appeal shall be **Eighty Dollars (\$80.00)**.

The fee for one and two-family dwellings shall be **Seventy-Five Dollars (\$75.00)**.

The fee for commercial construction shall be **One Hundred Dollars (\$100.00)**.

The fee for multi-family shall be **One Hundred Dollars (\$100.00)**.

The fee for accessory structure greater than **one hundred (100) square feet** shall be **Twenty-Five Dollars (\$25.00)**.

The fee for electrical service upgrade shall be **Twenty-Five Dollars (\$25.00)**.

The fee for mechanical shall be **Twenty-Five Dollars (\$25.00)**.

There shall be no fee for accessory structures less than **one hundred (100) square feet** or demolition.

Additionally, if due to the complexity of the building design a professional inspection service must be utilized, the owner will be assessed and inspection fee equal to the cost of the inspection service.

(E) Section 112. Board of Appeals is hereby deleted and the following inserted in lieu thereof:

Right to Appeal.

(A) Any person, firm or corporation who has been denied a building permit by the Building Official may request and shall be granted a hearing on the matter before the Building Permit Committee; provided that such person, firm or corporation shall file in the office of the City Clerk a written petition requesting such hearing and containing a statement of the grounds therefore within **twenty (20) days** after the issuance of the building permit has been denied.

(B) The Building Permit Committee shall hear all appeals relating to the denial of a building permit and by a concurring vote of the majority of its members may reverse or affirm wholly or partly, or may modify, the decision of the Building Official appealed from, and shall make such order or determination as in its opinion ought to be made. Failure to secure such concurring vote shall be deemed a confirmation of the decision of the Building Official. The decision of the Building Permit Committee shall constitute the final decision of the City relative to the appeal.

(C) A member of the Building Permit Committee shall not participate in any hearings or vote on any appeal in which that member has a direct or indirect financial interest or is engaged as a contractor, or is engaged in the preparation of plans and specifications, or in which the member has any personal interest.

(D) The Secretary of the Building Permit Committee shall keep a record of each meeting so that the records show clearly the basis for each decision made by the Building Permit Committee.

(E) All meetings of the Building Permit Committee shall be held at the call of the Chairman and at such times as the Committee may determine, provided that the establishment of the meeting date, time and locations are consistent with the overall intent of the Section and are in accordance with the Illinois Open Meetings Act and other applicable State laws.

(F) Section 113.4. Violation Penalties is hereby deleted and the following inserted in lieu thereof:

Section 113.4. Violation Penalties: Any person who shall violate a provision of this Code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the code official, or of a permit or certificate issued under the provisions of this Code, shall be guilty of a petty offense, punishable by a fine of not less than **Seventy-Five Dollars (\$75.00)** and not to exceed **Seven Hundred Fifty Dollars (\$750.00)** at the discretion of the court. Each day said violation exists shall be deemed a separate offense.

(G) **Section 114.2.** Unlawful Continuance is hereby deleted and the following inserted in lieu thereof:

Section 114.2. Unlawful Continuance. Any person who shall continue any work on or about the structure 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 guilty of a petty offense, punishable by a fine of not less than **Seventy-Five Dollars (\$75.00)** and not to exceed **Seven Hundred Fifty Dollars (\$750.00)** at the discretion of the court. Each day a violation continues after due notice has been served, in accordance with terms and provisions hereof, shall be deemed a separate offense.

(H) **Table R 301.2(1)** insert the following values in the table:

Ground snow load:	20 pounds per square foot
Wind speed:	70 miles per hour
Seismic design category:	"C"
Weathering:	Severe
Frost line depth:	36 inches
Termite:	Moderate to heavy
Decay:	Slight to moderate
Winter design temperature:	2 Degrees F
Ice shield underlayment required:	Yes
Flood Hazards:	Yes see Chapter 15 of the Newton
Air freezing index:	1055
Mean annual temperature:	53.4

(I) Chapters 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42 are hereby deleted without substitution.

(J) Appendix Chapters A, B, C, D, E, F, G and H are adopted as part of the code as if fully set forth in this document.

(Ord. No. 22-13; 07-05-22)

6-1-3 EFFECT ON EXISTING ORDINANCES, REMEDIES.

(A) This Code establishes minimum requirements for the initial and continued occupancy and use of all structures and premises and does not replace or modify requirements otherwise established by ordinance which may be additional or more stringent for the construction, repair, alteration, or use of structures, equipment, or facilities.

(B) The provisions in this Code shall not be construed to prevent the enforcement of other ordinances or regulations which prescribe standards other than are provided herein.

(C) The provisions in this Code shall not be deemed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe, and unsanitary.

(D) This Code shall not effect violations of any other ordinances, codes, or regulations existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, or regulations in effect at the time the violation was committed.

(Ord. No. 22-13; 07-05-22)

6-1-4 ADOPTION OF NATIONAL ELECTRICAL CODE AND STANDARDS.

(A) **National Electrical Code.** There is hereby adopted by reference the National Electrical Code, 2002, NFPA 70, as published by the National Fire Protection Association and made a part of this Chapter as if the same were set out herein.

(B) **Standards.** The safe and practical standards and specifications for the installation, alteration, and use of electrical equipment, also all the rules and regulations governing the issuance of permits by the building official, also the reasonable fees to be paid for the inspection of all electrical equipment installed or altered in the City deemed to be the minimum requirements for the protection of the health, welfare, and safety of the community in new and rewired electrical installments, are provided in this Code.

6-1-5 AMENDMENTS TO NATIONAL ELECTRIC CODE. Modification to the text of the National Electric Code, 2002 Edition, are as follows:

Article 80 is not adopted and is removed without substitution from the National Electric Code, 2002 Edition.

(Ord. No. 11-19; 11-01-11)

ARTICLE II - DANGEROUS AND/OR DILAPIDATED BUILDINGS

6-2-1 **DEFINED.**

(A) Any dangerous and/or dilapidated building in the City is hereby declared to be a nuisance. It shall be unlawful to maintain or permit the existence of any dangerous and/or dilapidated building in the City; and it shall be unlawful for the owner, occupant, or person in custody of any dangerous and/or dilapidated building to permit the same to remain in a dangerous and/or dilapidated condition, or to occupy such building or permit it to be occupied while it is or remains in a dangerous and/or dilapidated condition.

(B) The term “dangerous and/or dilapidated building” as used in this Article is hereby defined to mean and include:

- (1) Any building, shed, fence, or other man-made structure that is dangerous to the public health because of its construction or condition, or which may cause or aid in the spread of disease or cause injury to the person or property of persons who occupy, enter, or are in the vicinity of the structure.
- (2) Any building, shed, fence or other man-made structure, which, because of faulty construction, age, lack of proper repair, or any other cause, is especially liable to fire and constitutes or creates a fire hazard.
- (3) Any building, shed, fence or other man-made structure, which, by reason of faulty construction, age, lack of proper repair, or any other cause is liable to cause injury or damage to persons or property by collapsing or by a collapse or fall of any part of such a structure.
- (4) Any building, shed, fence or other man-made structure, which, because of its condition or because of lack of doors, windows, walls, or other defects is open to entry by animals, birds, minors, trespassers, malefactors, disorderly persons, or other persons who are not lawful occupants of such structure.
- (5) Any building, shed, fence or other man-made structure, which, by reason of faulty construction, age, lack of proper repair, or any other cause does not meet State or Local Building Codes, Electric Codes, Plumbing Codes, or other Health and Safety codes.

(C) Whenever the Chief of Police or any person designated by him, upon inspection of any building or structure in the City shall determine that such building or structure in the City is a dangerous building, he shall thereupon post a Notice upon the building condemning the building and shall cause written Notice to be served upon the owner thereof and upon the occupant thereof, if any, by registered or certified mail to the last-known address or by personal service. The date of service of notice by mail shall be the date on which the Notice is mailed. The Notice shall indicate that the building has been declared to be in a dangerous condition, and that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it; and that the condition must be remedied immediately and without delay.

No person shall remove, alter, or deface any Notice required to be posted pursuant to this Article. If the Notice given hereunder has not complied within **ten (10) days** from the date when the Notice is served, the City may proceed to remedy the condition or demolish the dangerous building; except as specifically otherwise provided herein, the City may demolish, repair, or cause the demolition or repair of a dangerous and dilapidated building as provided within **65 ILCS 5/11-31-1**.

(D) Notwithstanding any other provision herein, the Chief of Police may declare a specific structure to be a nuisance constituting an imminent danger to health, safety, and life and authorize demolition as provided herein.

(E) If a structure constitutes a dangerous and dilapidated building as defined within paragraph (B)(4) above, the Chief of Police may upon written request of the owner permit the temporary boarding up of said structure subject to the following provisions.

- (1) No structure shall be boarded up for a period in excess of **ninety (90) days** from date of service of the Notice. Within said **ninety (90) day** period, the owner shall repair the structure and bring said structure into full compliance with City Ordinances and Building Codes or the owner shall demolish the structure.
- (2) All exterior openings in a building structure larger than **one (1) square inch** in size must be covered with a minimum of **one-half (1/2) inch** thick exterior grade plywood, masonite, or equivalent strength sheet-like material that is rated and labeled for use in direct contact with weather. Fastening devices may be nails or screws not less than **one and one-half (1 ½) inch** in length and shall not be spaced more than **six (6) inches** apart around the perimeter of each sheet of material.
- (3) The boarding up of a building shall not be a defense to a demolition proceeding, nor may the Court order a dangerous or dilapidated building boarded up. The boarding up of a building shall be an admission by the owner or occupant that the building or structure is a dangerous or dilapidated building.

Upon the Chief of Police determining that it is necessary to immediately remedy a dangerous condition arising from a dangerous and/or dilapidated building as defined in paragraph (B)(4) above, the Chief of Police, with or without notice, may cause a structure to be boarded up through any available public agency or by contract or arrangement with private persons; and all associated direct costs thereof shall be assessed against the owner of the structure and shall be charged against the real estate upon which the structure is situated and shall be a lien upon such real estate.

(F) Any building or structure which has been damaged by fire, decay, or other cause to the extent of **fifty percent (50%)** of its value, shall be torn down and removed. Upon determination by the Chief of Police that a building or structure has been damaged to the extent of **fifty percent (50%)** of its value, a Notice shall be served upon the owner of the premises by personal service or by registered or certified mail to his last-known address. Such Notice shall notify the owner that the building has been damaged by fire, decay, or other cause to the extent of **fifty percent (50%)** of its value and that the building must be demolished within **ten (10) days** from date of this Notice and that the building must be immediately vacated and not occupied. It shall be unlawful for any person to occupy or to permit such building to be occupied after service of Notice. This subsection shall not be a limitation upon any other provisions of this Article.

If the Notice given herein shall not be complied with within **ten (10) days** from the date when the Notice is served, the City may proceed to demolish the building in the same manner as provided for the demolition of a dangerous and/or dilapidated building.

(G) In addition to the actions authorized by other sections of this Article, the Chief of Police, or any other municipal officer whose duty is to investigate fires, may make the investigation authorized by statute found in the Fire Investigation Act, **425 ILCS 10.01 et seq.** If such officer shall find that any building or structure is so occupied or situated as to endanger persons or property, or by reason of faulty construction, age, lack of repair, or for any cause is especially liable to fire, or is liable to cause injury by collapsing or otherwise, he shall order the dangerous situation removed or remedied, and shall so notify the owner or occupant of the premises. Service of such notice may be in person or by registered or certified mail to the last-known address, and any person so notified may appeal from the decision of such office in the manner provided by law.

(H) Any person, firm, or corporation violating any provision of this Article, or permitting any dangerous building, or structure, to remain in a dangerous and/or dilapidated condition, shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues.

(Ord. No. 10-8; 05-04-10)

ARTICLE III - BUILDING DEMOLITION INCENTIVES

6-3-1 **PROGRAM ESTABLISHED.**

(A) A property owner who causes the demolition and disposal of a dangerous and/or dilapidated building within the City shall be eligible to receive reimbursement in an amount not to exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** per lot for the owner's costs in utilizing dumpster(s) to remove the materials and debris generated by the demolition and disposal of the dangerous and/or dilapidated building. As a condition to reimbursement, the property owner must submit a before and after picture of the lot evidencing the demolition and disposal of the dangerous and/or dilapidated building and a copy of the paid receipt for the dumpster(s) cost incurred by the owner for the said demolition and disposal. Qualification for reimbursement and the amount of reimbursement up to the maximum of **Two Thousand Five Hundred Dollars (\$2,500.00)** per lot shall be subject to the approval of the City Council in its sole discretion.

(B) For City improvement purposes, the City intends to budget **Fifteen Thousand Dollars (\$15,000.00)** of its Capital Development Funds for property maintenance and legal fees associated therewith. City may in its sole discretion after approval by the City Council and after title verification accept dangerous and/or dilapidated buildings and the lands upon which they are located from the owner(s) of such property. The City may then demolish or cause to be demolished the structures located on said lands and remove or cause to be removed the debris resulting from such demolition. The City may at any time before or after demolition convey, transfer or otherwise dispose of the lands as the City Council in its sole discretion shall determine. In the event the City determines not to accept title to a property upon which it agrees to demolish structures located on the lands and remove or cause to be removed the debris resulting therefrom as authorized by Ordinances, the City may place a lien on the lands for the amount of its costs, including legal fees and other necessary expenses, incurred in causing the structure(s) to be demolished and removed from the City. **(Ord. No. 15-01; 02-17-15)**
(Ord. No. 13-12; 12-17-13)

6-3-2 **ANNUAL BUDGET.** The City may budget all of its gaming revenue from the State of Illinois for dumpster reimbursement and/or other beautification projects, all subject to Council approval. **(Ord. No. 15-01; 02-17-15)**

6-3-3 **REIMBURSEMENT FOR COSTS.** Priority for reimbursement under the provisions of this Article shall be on a "first come first served basis" of receipt by the City Clerk of the required paid receipts and pictures above described.

6-3-4 **T.I.F. DISTRICT RESTRICTIONS.** It is further a condition of reimbursement under this Article that the lots upon which the dangerous and/or dilapidated building is demolished and removed cannot be located in a T.I.F. or Enterprise Zone. It is further a condition of reimbursement that the property owner must have complied with all City, County, State and Federal rules and regulations in any way related to the demolition and disposal of buildings and/or building materials.

(Ord. No. 09-6; 06-16-09)

ARTICLE IV - INTERNATIONAL PROPERTY MAINTENANCE CODE

6-4-1 **ADOPTION OF CODE.** A certain document, **three (3) copies** of which are on file in the office of the City Clerk, being marked and designated the *International Property Maintenance Code*, 2015 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collections of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of the Property Maintenance Code on file in the office of the City are hereby referred to, adopted, and made a part hereof, as if fully set forth in this Chapter, with the additions, insertions, deletions and changes, if any, prescribed in **Section 6-1-2.**

6-4-2 **AMENDMENT TO CODE.** The following sections are hereby revised:

(A) **Section 101.1.** Insert [NAME OF JURISDICTION] City of Newton, an Illinois Municipal Corporation.

(B) **Section 103.5.** Insert: [Appropriate Schedule] \$150.00 per inspection with a minimum charge of \$200.00 per day; and additional inspections made on same date shall be paid an additional \$150.00 per additional inspection.

(C) **Section 112.4.** Insert: [Dollar Amount in Two Locations] Not less than \$75.00 nor more than \$750.00.

(D) **Section 302.4.** Insert: [Height in Inches] 8 inches.

(E) **Section 304.14.** Insert: [Dates in Two Location] March 1st to November 1st.

(F) **Section 602.3.** Insert: [Dates in Two Location] September 1st to May 1st.

(G) **Section 602.4.** Insert: [Dates in Two Location] September 1st to May 1st.

(Ord. No. 22-04; 04-05-22)

ARTICLE V – BOARD OF APPEALS

6-5-1 GENERAL PROVISIONS.

(A) These rules and procedures are supplementary to the provisions of the Building Code of Newton, Illinois, Chapter 6, as amended from time to time, as they relate to the procedures of the Building Code Board of Appeals (“BCBA” or the “Board”), and are adopted pursuant to the authority vested in the Building Code Board of Appeals contained in Chapter 6 of the City Code.

(B) Any member of the BCBA who has any interest (i.e., personal, professional, or financial) in a matter before the Board shall remove himself/herself from his/her place on the Board at any meeting or hearing at which said matter is under consideration. Said member may remain at the meeting or hearing but shall not participate or vote in any proceedings on such a matter, and in no event shall his/her physical presence be counted in establishing whether a quorum is present. An alternate member shall be appointed to fill any position as provided in the Building Regulations.

(C) The BCBA adopts and shall follow the Rules of Parliamentary Practice contained in Chapter 1 of this Code.

(D) The Board of Appeals shall consist of **five (5) members** who shall be chosen from the Zoning Board of Appeals.

6-5-2 GENERAL BUSINESS MEETINGS.

(A) The Board shall meet at stated periodic meetings or a general business meeting may be called by the Chairman for due cause at his/her discretion, or upon the request of **two (2)** or more members provided that **forty-eight (48) hours’** notice is given to each member.

(B) Meetings and hearings may be recessed to another date by the BCBA by motion for lack of a quorum or for convenience of the parties resulting from a lengthy session.

(C) All meetings shall be open to the public whenever any official action is to be taken.

(D) A quorum for a meeting shall consist of **three (3) members.**

(E) No action may be taken on an off-agenda item unless a majority of those Board members present determine there is a need to take immediate action and that the need for action came to the attention of the Board subsequent to the posting of the agenda. It is inevitable that subjects will arise, during the course of consideration of the agenda items, on which no action can be prudently taken immediately. In such event, the Chairman shall have the power to refer the matter to staff, or place the item on the agenda of a future meeting or both.

(F) Other than as specified for appeals, a majority vote of the Board shall be necessary to make a decision.

6-5-3 PROCEDURES ON APPEAL.

(A) Any person affected by a decision of a Code Official or a notice or order issued under this Code (Chapter 6) shall have the right to appeal to the BCBA, provided that a written application for appeal is filed in within **twenty (20) days** after the day the decision, notice or order was served, and the application fee paid. The written application shall be on the prescribed form kept by the Secretary to the Board, and the applicant shall provide all required information and shall sign the form (or shall be signed by his/her attorney or agent).

(B) 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 duly apply, or the requirements of this Code are adequately satisfied by other means.

(C) The fee for an application of appeal is **Fifty Dollars (\$50.00)** and shall be paid at the time application is filed and shall be non-refundable.

(D) If the appellant submits any additional written or printed material for the BCBA’s consideration less than **three (3) business days** prior to the date of hearing on the matter, the Board may continue the matter and the appellant shall be deemed to have consented to such a continuance.

(E) Any communication purporting to be an appeal that is not on the prescribed form, not signed, or the fee was not paid shall be regarded as a mere notice to seek relief, and shall not be considered a filed appeal, and may not be acted upon by the Board.

(F) The Board may dismiss an appeal for lack of prosecution in which the appellant fails to appear for the hearing or fails to file a written request for a continuance for good cause.

(G) The Code Official shall make all papers constituting the records upon which the action appealed from was taken a matter of public record.

(H) The appellant shall not only provide that information required on the appeal application form but shall also provide any additional information that may be required or requested by the Board to aid it in reaching a decision.

(I) The original appeal application and attachments thereto plus **six (6) copies** of the appeal and attachments shall be prepared and filed with the Secretary to the Board.

(J) Upon receipt of the properly filed appeal application form and payment of fee, the Secretary to the Board shall assign the matter a case number and place it on the calendar of the Board for hearing within the time frame allotted. Applications for appeals shall be assigned for hearing in the order in which they are received.

(K) At any public hearing of an appeal before the Board, the appellant shall appear on his/her own behalf and may be represented by legal counsel. The Code Official shall first present the case for the County and his/her reasons for his/her decision. The Code Official/County may be represented by legal counsel before the Board. The appellant's side of the case shall then be heard. Then the Code Official/County's rebuttal shall be heard, following by the appellant's rebuttal. To maintain orderly procedure, each side shall proceed without interruption by the other. Repetitious and accumulative testimony shall be avoided. Testimony or comments from those not named on the appeal form shall be heard only if recognized as appropriate by the Chairman. The Board, any of its members, or the Board's legal counsel may ask questions of the Code Official and/or the appellant at any time during the hearing.

(L) All persons attending meetings of the Board will be asked to identify themselves, and address Board members or other persons present through the Chairman.

(M) All exhibits (i.e., maps, letters, documents) considered by the Board at any hearing shall become a part of the record of the Board.

(N) If either the County or the appellant desires to present expert testimony at a hearing, the party calling such witness shall be at least **five (5) days** prior to the hearing identify in writing the name and address of said individual to the other party and the Board and also provide his/her opinions to be elicited and the bases therefor. This rule does not apply to the testimony of the Code Official.

(O) Any testimony presented to the Board by the appellant, the County, or any other person shall be under oath.

(P) The Illinois Rules of Evidence and their applicability to any testimony, evidence, or exhibit submitted to the Board shall be relaxed. The Chairperson shall rule on any objection to testimony, evidence, or exhibit, and the admissibility of any testimony, evidence, or exhibit presented to the Board.

(Q) The Board's decision regarding an appeal is governed by Article I of this Chapter.

6-5-4 AMENDMENTS.

(A) Amendments to these rules and procedures may be made by the Board at any regularly called meeting or any special meeting by the affirmative vote of **four (4) members**, excluding alternate members.

(B) The suspension of any rule or procedure may be ordered at any meeting or hearing by a vote of **two-thirds (2/3)** of the Board members present.

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CHAPTER 7

BUSINESS CODE

ARTICLE I – LICENSES

7-1-1 **LICENSES OR PERMITS REQUIRED.** No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the City in the manner provided in this Chapter, unless otherwise specifically provided.

7-1-2 **APPLICATION.** Unless otherwise provided, application for a license or permit shall be made in writing to the City Clerk upon forms provided by the City, and applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such a license or permit.

7-1-3 **PAYMENT OF FEE.** The fees required for any license or permit shall be paid at the office of the City Clerk, before the granting of the license or permit. No fee paid shall be refunded, unless the license or permit is denied. Where over half of the license year has expired the license fee for the remainder of the license year shall be **one half (1/2)** of the annual license fee.

7-1-4 **APPROVAL OR DENIAL OF LICENSES.**
(A) Where the approval of any City officer or state officer is required prior to the issuance of any license or permit, such approval must be presented to the City before any license or permit is issued.
(B) No license or permit shall be approved by any City officer or issued by the City if it appears that the conduct of the activity for which a license or permit is sought will be contrary to the health, safety or welfare of the public or any regulation, law or ordinance applicable to such activity.

7-1-5 **CERTIFICATES.** Licenses or permit certificates shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the City by the Mayor and City Clerk, and be impressed with the City seal. The Clerk shall keep a record of all licenses and permits issued.

7-1-6 **LICENSE AND PERMIT TERM.**
(A) Unless otherwise provided, the term of the license year shall end on **May 1** of each year.
(B) Where the issuance of licenses for a period of less than **one (1) year** is permitted, the effective date of such license shall commence with the date of issuance.
(C) Permits shall be issued for the term set forth in the permit.

7-1-7 **EXHIBITION OF CERTIFICATE.** Every licensee or permittee shall carry his license or permit certificate upon his person at all times when engaged in the activity for which the license or permit was granted; except that where such activity is conducted at a fixed place or establishment, the license or permit certificate shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license certificate when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

7-1-8 **TRANSFER.** Unless otherwise provided, no license or permit shall be transferable or assignable.

7-1-9 **RENEWAL.** Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as original licenses or permits.

7-1-10 **REVOCATION.** Any license or permit issued by the City may be suspended or revoked by the Mayor or Council for any of the following causes:

- (A) Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.
- (B) Conviction of any crime or misdemeanor.
- (C) Conducting such activity in such manner as to constitute a breach of the peace, or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the City, upon recommendation of the appropriate City official.
- (D) Expiration or cancellation of any required bond or insurance.
- (E) Actions unauthorized or beyond the scope of the license or permit granted.
- (F) Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the state so applicable.
- (G) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.

7-1-11 **HEARING.** Any person aggrieved by the action of the City official in denying or revoking a license or permit shall have the right to a hearing before the City Council on any such action, provided a written request therefor is filed with the City Clerk within **ten (10) days** after receipt of the notice of such suspension or revocation to reinstate any such license or permit. The action taken by the City Council after a hearing shall be final.

7-1-12 **INSPECTIONS.** City officials may enter upon the premises where any licensed or permitted activity is being conducted for the purpose of inspection at any reasonable time.

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 or;
- (B) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character or;
- (C) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication or;
- (D) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation or project.

7-2-2 **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 inch (1/3")** 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**.

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.

7-2-10 SOLICITATIONS ON PUBLIC HIGHWAYS. No person shall stand on a highway for the purpose of soliciting contributions from the occupancy of any vehicle except where the City Council has expressly permitted the same by ordinance and when and where soliciting may take place based upon the safety of the solicitors and motorists:

(A) The soliciting agency shall 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.

(See 626 ILCS Sec. 5/11-1006)

7-2-11 FEES. Upon making an application for a Certificate, the applicant shall pay a license fee, which shall be as follows:

- (A) **Daily License:** \$10.00 per person per day.
- (B) **Annual License:** \$50.00 per person per year.

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

ARTICLE III - PEDDLERS

7-3-1 **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

7-3-2 **DEFINITION.** "Peddle" shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall 'peddle' be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

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

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

7-3-4 **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

7-3-5 **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **10:00 A.M.** or after **5:00 P.M.** of any weekday or at any time on a Sunday or on a State or National holiday.

7-3-6 **FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

7-3-7 **PHOTOGRAPHS.** **Two (2) photographs** of the applicant and such of its employees as will be used in the peddling or merchandising, taken within **sixty (60) days** immediately prior to the filing of the application, which pictures shall be **two inches by two inches (2' x 2')**, showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

7-3-8 **UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

7-3-9 **PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the municipality by peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in the public square.

7-3-10 **DUTY OF POLICE TO ABATE.** The Police Department of this municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-3-9.**

7-3-11 **LOCAL BUSINESSES AND FARMERS EXCLUDED.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the municipality or anyone duly licensed.

7-3-12 **FEES.** The license fees per person to be charged for licenses to peddle in this municipality, each payable in advance, are hereby fixed and established as follows:

- (A) **Daily License:** **\$10.00 per person per day**
- (B) **Annual License:** **\$50.00 per person per year**

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

ARTICLE IV - COIN-OPERATED MACHINES

7-4-1 DEFINITIONS. Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

“COIN-OPERATED AMUSEMENT DEVICE” means any amusement machine or device operated by means of the insertion of a coin, token, or currency for the purpose of amusement or skill and for the playing of which a fee is charged. The term includes, but is not limited to juke boxes, electronic video games, pool tables, pin-ball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features.

“OPERATOR” is hereby defined to be any person, firm, corporation, partnership, association or club who sets up for operation by another or leases or distributes for the purpose of operation by another, any device(s) herein defined, whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income from such device or otherwise.

“PROPRIETOR” is hereby defined to be any person, firm, corporation, partnership, association or a club who, as the owner, lessee or proprietor has under his or its control any establishment, place or premises in or on which such device is placed or kept for use or play or on exhibition for the purpose of use or play.

7-4-2 LICENSE REQUIRED. No person, firm or corporation shall engage in the business of an operator of coin-operated amusement devices within the corporate limits of this municipality without having first obtained the proper license therefor.

7-4-3 APPLICATION. Application for license shall be verified by oath or affidavit and contain the following information:

- (A) The name, age and address of the applicant in the case of an individual and, in the case of a co-partnership, of the persons entitled to share in the profits thereof; and in the case of a corporation, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors; and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).
- (B) The citizenship of the applicant, his place of birth; or if a naturalized citizen, the time and place of his naturalization.
- (C) The address of the place where the applicant proposes to operate.
- (D) A statement whether the applicant has made a similar application for a similar license on premises other than those described in the application and the disposition of such other application.
- (E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this section.

- 7-4-4 PROHIBITED LICENSEES.** No license under this section shall be issued to:
- (A) Any person who is not a citizen of the United States.
 - (B) Any person who is not of good character and reputation in the community.
 - (C) Any person who has been convicted of a felony under the laws of Illinois; or of being the keeper of a house of ill-fame; or of pandering or other crime or misdemeanor opposed to decency or morality.
 - (D) Any person whose license issued under this Chapter has been revoked for cause.
 - (E) Any partnership, unless all of the members of the partnership are qualified to obtain such license.
 - (F) Any corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation,

would not be eligible to receive a license for any reason other than citizenship or residency within this municipality.

(G) Any person whose place of business is conducted by a manager or agent unless the manager or agent is of legal age and possesses the same qualifications required of the licensee.

(H) Any person who does not own the premises for which a license is sought, or does not have a lease therefor for the full period for which the license is to be issued.

7-4-5 FEES. The annual fee for such license shall be **Fifteen Dollars (\$15.00) per year** or part thereof for each coin-operated amusement device set up for operation, leased or distributed to a proprietor.

(A) All operator's license fees shall be payable annually in advance and in no case shall any portion of said license fee be refunded to the licensee.

(B) The license period shall be for the fiscal year of the municipality, and all applications for renewal shall be made to the Clerk not more than **thirty (30) days, but no less than fifteen (15) days** prior to the expiration of such license.

7-4-6 NON-ASSIGNABILITY OF LICENSE. The location of a license may be changed only upon the written permission of the Mayor. Any license issued hereunder shall be non-assignable and non-transferable.

7-4-7 GAMBLING REGULATIONS.

(A) All licensed devices shall, at all times, be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used.

(B) Nothing in this Article shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

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

(D) **Permitting Gambling.** The gambling prohibition shall not apply to any game or gaming even for which a license or permit has been by the Illinois Gaming Board pursuant to the *Illinois Video Gaming Act, 230 ILCS 40/1 et seq.*, provided that such game or gaming event is conducted in full and complete compliance with all requirements of such act and all rules and regulations of the Illinois Gaming Board. **(See Chapter 21 – Liquor Code)**

7-4-8 DISPLAY OF LICENSE. Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

7-4-9 RIGHT OF ENTRY. The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

7-4-10 CLOSING HOURS. No establishment operating under a license issued under this Article shall be open for use of any such devices between the hours of **12:00 Midnight and 6:00 A.M.** on any day or between **12:00 Midnight Saturday and 12:00 Noon** the following Sunday.

(See 65 ILCS Sec. 5/11-55-1)

ARTICLE V – RAFFLES AND POKER RUNS

7-5-1 DEFINITIONS. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

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

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

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

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

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

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

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

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

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

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

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

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

- (1) the player pays or agrees to pay something of value for a chance, represented and differentiated by as number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

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

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

7-5-2 REQUIREMENT OF LICENSE.

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

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

7-5-3 APPLICATION FOR A LICENSE FOR A RAFFLE.

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

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

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The area in which raffle chances will be sold or issued;
- (10) The time period during which raffle chances will be sold or issued;
- (11) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

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

NOTE: The governing statute states that all licensing systems for raffles shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a

licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold.

7-5-4 APPLICATION FOR A LICENSE FOR A POKER RUN.

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

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

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

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

7-5-5 LICENSEE QUALIFICATIONS.

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

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;

- (5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and
- (6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

7-5-6 LICENSE ISSUANCE.

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

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

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

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

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

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

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

- (1) A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.
- (2) A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

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

7-5-7 CONDUCT OF RAFFLES AND POKER RUNS.

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

- (1) The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is

listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.

- (5) Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.
- (6) A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are being determined only when accompanied by his parent or guardian.

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

7-5-8 MANAGER - BOND.

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

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

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

7-5-9 RECORDS.

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

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

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

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

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

7-5-10 LIMITED CONSTRUCTION. Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.

7-5-11 PRIZE LIMITATIONS; TERM.

(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle or poker run shall not exceed **Two Million Dollars (\$2,000,000.00)**;

(B) The maximum retail value of each prize awarded by a licensee in a single raffle or single poker run shall not exceed **Two Million Dollars (\$2,000,000.00)**;

(C) The maximum price which may be charged for each raffle chance issued or sold or each poker hand shall not exceed **One Hundred Dollars (\$100.00)**;

(D) The maximum number of days during which chances may be issued or sold or poker hands issued or sold shall not exceed **one (1) year**;

(E) Licenses issued pursuant to this Code shall be valid for **one (1) raffle** and may be suspended or revoked for any violation of this Code;

(F) Licenses shall be issued to bona fide religious, charitable, labor, fraternal, educational, or veterans' organizations that operate without profit to their members, and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objectives;

(G) The above-mentioned types of organizations shall be defined pursuant to **230 ILCS 15/.01 et seq.**, being the Raffles and Poker Run Act;

(H) No person, or organization shall be issued more than **one (1) license** in a period of **one (1) week**;

(I) The manager of a raffle game or poker run shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** in favor of the organization conditioned upon his honesty in the performance of his duties. The Mayor or his designated representative is authorized to **waive** requirement for bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization. The terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than **thirty (30) days** prior to its cancellation.

(Ord. No. 19-12; 09-03-19)

ARTICLE VI – YARD SALES

7-6-1 **DEFINITIONS.** “Yard Sales” shall include any outdoor display of used personal property for the purpose of exchanging it for legal tender or barter at a location not devoted exclusively to the retail sale of new personal property. Events commonly known as “Garage Sales”, “Tailgate Sales”, “Flea Market”, “House Sales”, “Moving Sales”, and similar designations should be defined as “Yard Sales” under the provisions of this Article. The outdoor sale of new or used vehicles at a motor vehicle dealership or new or used implements at a farm implement dealership shall not constitute a “Yard Sale”.

7-6-2 **DURATION.**
(A) No yard sale shall be conducted for a period greater than **three (3) successive calendar days.**
(B) Yard sales shall be conducted within the period between sunrise and sunset.

7-6-3 **FREQUENCY.**
(A) Yard sales shall be held no more than **three (3) times** within the same calendar year at the same location.
(B) Yard sales shall be held no sooner than **thirty (30) days** subsequent to the close of a yard sale at the same location.

7-6-4 **PROHIBITED MERCHANDISE.** Prohibited from such merchandise to be sold at yard sales shall be alcoholic beverages, firearms, firearm ammunition, materials determined by the City Code as obscene, animals or any other merchandise of which sale without proper licensing or authorization from state or local authorities is unlawful.

7-6-5 **PENALTY.** Any person who violates any provision of this Article, shall, upon conviction be fined not less than **Seventy-Five Dollars (\$75.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day of violation of this Article shall constitute a separate offense.

(Ord. No. 03-03; 04-01-03)

ARTICLE VII – TATTOO ARTISTS

7-7-1 **JURISDICTION.** This Article shall apply to all territory embraced within the City limits of the City of Newton, Jasper County, Illinois.

7-7-2 **DEFINITIONS.**

"City" means the City of Newton, Jasper County, Illinois.

"Consumer" means any member of the public who is provided access to a tattoo facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tattoo facility as a condition or benefit of membership or access.

"Fee" means the amount charged to any individual for tattooing.

"Other Compensation" means the payment or exchange of goods, services, or anything of value for use of the tattoo parlor.

"Inspectors" means all authorized agents of the City who have the authority to enter and make reasonable inspections of any tattoo parlor during their regular hours of business for the purpose of determining compliance with the City's rules governing tattoo parlors. The inspector shall prepare a written report of said inspection. Such report shall be signed by the inspector and by the tattoo parlor owner or other designated representative. A copy of such inspection report shall be left with the owner or manager. Inspectors may include not only employees of City, but such other individuals and personnel of either public or private agencies which may from time to time be engaged by the City for the purposes of this Article.

"Tattoo" means a permanent design on the skin made by puncturing the skin and inserting indelible colors.

"Tattooing" means the act of puncturing the skin and inserting indelible colors to form a permanent design.

"Tattooer" means a person who punctures the skin and inserts indelible colors to for a tattoo.

"Tattoo Facility" means any place where the act of the tattooing is performed regardless of whether a fee is involved.

7-7-3 **PREMISES.**

(A) All parts of the premises of a tattoo facility shall be kept in a clean, sanitary and orderly condition at all times.

(B) There shall be a hand washing facility located within the tattooing area. This hand washing facility shall be provided with hot and cold running water and be separate from any public restroom. A supply of bactericidal hand-cleansing soap or detergent must be available. A supply of disposable sanitary towels or a heated air hand-drying device must be provided at the hand wash sink. If disposable towels are used, easily cleanable waste receptacles must be conveniently located near the hand washing facility. Hand wash sinks shall be accessible to employees at all times.

7-7-4 **EQUIPMENT.**

(A) Needles, lancets, other sharp objects, pens, stencils, ink caps and their contents shall be disposed of after puncturing the skin and/or contact with body fluids, and prior to the tattooers removal of gloves.

(B) All other equipment used in the application of the tattoo shall be washed, rinsed, sterilized and air dried after each use. The method of sterilization shall be in a manner described in **Section 7-7-8.**

(C) Solder used as a part of the equipment must be lead free.

(D) All equipment and preparation materials used in the application of the tattoo shall be stored in such a manner as to prevent accidental contaminations.

(E) All tables or counters shall be constructed of a nonabsorbent, smooth, easily cleanable, durable material which is capable of being sanitized.

(F) Clean, dry and disposable sanitary toweling shall be provided and used for no other purpose than with the tattooing process. Towels and sheets shall be discarded or cleaned after each use. (No repeat use between clients.)

(G) Floors, walls and ceiling shall be constructed of a smooth, easily cleanable, durable material. Concrete or pumice blocks used for interior wall construction shall be finished and sealed to provide an easily cleanable surface.

(H) Kneeling pads, other pads, and contact surfaces such as, but not limited to machine heads and clipcords, shall be cleaned and sanitized after each use. Such contact surfaces shall be sanitized by rinsing, spraying, or swabbing with a chemical sanitizing solution that will provide the equivalent bactericidal effect of a solution containing at least 100 ppm of available chlorine as a hypochlorite and having a temperature of at least **75°F**.

(I) A test kit or other device that accurately measures the parts per million concentration of the sanitizing solution shall be available and used after each mixing of a new batch.

7-7-5 BODY FLUID PRECAUTIONS.

(A) Hands shall be properly washed before and after contact with clients. Hands must be washed before and after gloves are used. If hands come in contact with blood, body fluids or human tissue they must be immediately washed with bactericidal soap and water.

(B) Surgical gloves must be worn when contact with blood, body fluids, tissue or contaminated surfaces is anticipated.

(C) Gowns and/or aprons must be worn when providing services for clients if clothing is likely to be soiled with blood/body fluids.

(D) Protective eyewear should be worn when services are being provided for the customer. Employees of the tattooer are required to wear protective eyewear while tattooing.

7-7-6 PREPARATION OF SKIN AND AFTER CARE.

(A) All materials used in the application of the tattoo are to be provided in sufficient quantities as to preclude the need for replenishment during the actual tattooing. In the event that supplies do run out during the tattooing, the tattooer is to either have an assistance, after proper hand washing, deliver the needed items, or the tattooer must remove their gloves, properly wash their hands, replenish supplies, properly wash their hands and put on new, unused surgical grade gloves.

(B) The skin surface to be tattooed shall be shaved clean by a razor.

(C) The skin surface to be tattooed shall be thoroughly washed for at least **one (1) minute** with a bactericidal soap.

(D) During the tattooing, any oils, creams, gels, stencils, etc. used must be dispensed in a sanitary manner. These items must be discarded after each tattoo.

(E) Following the application of the tattoo, the area of the skin having the tattoo shall be properly covered.

(F) Before leaving the tattoo parlor or facility, each client shall receive printed tattoo care instructions approved by the City.

7-7-7 DISEASES. All communicable diseases resulting from a tattoo shall be reported to the City by the facility operator and the person having received the tattoo. This shall be done immediately upon detection of a disease or complication.

7-7-8 STERILIZATION OF EQUIPMENT.

(A) Dry heat at **300°F** for a minimum of **two (2) hours**.

(B) Autoclave at **250°F** under **twenty (20) pounds** pressure for **fifteen (15) minutes**.

(C) Use of either method also requires that approved temperature indicators be used on all packaging.

(D) Needles, tubes and bars shall remain in their sterilization packages until used. Any one of the above methods mentioned is approved by the City for proper sterilization of tattooing equipment.

7-7-9 RECORDS AND LIMITATIONS.

(A) A file with the date of the procedure, tattooer's name, type of tattoo, client's name, age, address and phone number shall be kept for a minimum of **three (3) years**, and made available for the City upon inspection of the facility. The client's age is to be documented by a picture I.D. which includes the client's date of birth.

(B) The tattooing of any person under the age of **twenty-one (21)** by any person, other than a person licensed to practice medicine in all of its branches is prohibited. **(720 ILCS 5/12-10)** This information is to be posted next to the facility permits.

7-7-10 SANITARY FACILITIES.

(A) **Potable Water.** The potable water supply must be constructed and operated in accordance with the law.

(B) **Sewage Disposal.** All water-carried waste shall be disposed of by discharging into a sewerage system operated and maintained under permit of the Illinois Environmental Protection Agency (IEPA) or a private sewage system constructed in accordance with the Illinois Private Sewage Disposal Licensing Act and Code.

(C) **Solid Waste Disposal.**

(1) **Containers.**

(a) All solid waste shall be kept in durable containers that do not leak or absorb liquids. Infectious waste, biohazard bags, shall be used to line containers used for materials that have come into contact with body fluids.

(b) Containers shall be stored inside the establishment and shall be provided with tight-fitting lids and kept covered when not in use.

(2) **Disposal.** All garbage and rubbish shall be disposed of at least once a week to an IEPA regulated landfill or incinerator.

(D) **Sharps.** Used needles, lancets and other sharp items must be placed in puncture resistant containers located in the use area. The puncture resistant containers shall be disposed of by a licensed IEPA medical waste disposal company.

7-7-11 PERMITS.

(A) It shall be unlawful for any person to tattoo persons within the City who does not possess a valid permit issued by the City. Only a person who is age **twenty-one (21)** or older who complies with the requirements of this Article shall be entitled to receive and retain such a permit. Prior to applying for a permit or renewal of an existing permit, the applicant and all employees of the applicant must obtain a health certificate from a licensed physician certifying that the applicant and/or employee are free from any communicable diseases. It shall be unlawful to employ any person in the business of a tattooer who does not hold such a valid health certificate.

(B) **Issuance of Permits.**

(1) Any person desiring to tattoo shall make written application for a permit at least **one (1) week** prior to the proposed date of opening, or in the event of persons currently engaged in such activities, within **one (1) week** from the effective date of this Article, on forms provided by the City. Such application shall be completed and signed by the owner or his or her representative.

(2) Upon receipt of such application, the City shall inspect the establishment named in the application prior to the date of opening; and it shall determine if the establishment is in compliance with the provisions of this

Article. When an inspection reveals that the provisions of the Article have been met, a permit shall be issued. The permit is valid for a period of **twelve (12) months** from the date of issuance. The permit shall be prominently posted in public view.

- (3) The total number of tattoo establishments shall not exceed **two (2)** at any one time.
- (4) Permits issued hereunder are not transferable.

(C) **Suspension of Permits.**

- (1) Permits may be suspended temporarily by the City for failure of the holder to comply with the requirements of this Article.
- (2) Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of any notice under the provision of **Section 7-7-8** of this Article, the permit holder or operator shall be notified in writing that the permit is, upon service of the notice, suspended and that an opportunity for a hearing will be provided, if, within **seventy-two (72) hours**, a written request for a hearing is filed with the City by the permit holder.
- (3) Notwithstanding the other provisions of this Article, whenever the City finds unsanitary or other conditions in the tattoo operation which, in its judgment, constitute a substantial immediate hazard to the public health, it may without warning, notice or hearing, issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken; and, if deemed necessary, such other shall state that the permit is suspended at the time of inspection. Tattoo service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply therewith, but, upon written petition, filed not more than **seventy-two (72) hours** after the discontinuance order, may request a hearing for abatement of the order. The City shall provide a hearing not later than **five (5) days** from the filing of said petition.

(D) **Reinstatement of Suspended Permits.** Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within **five (5) days** following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the City shall make a reinspection. If the applicant is in compliance with the requirements of this Article, the permit shall be reinstated.

(E) **Revocation of Permits.** For serious and/or repeated violations of any of the requirements of this Article, or for interference with the City, or its designees, in the performance of its duties, the permit may be permanently revoked after an opportunity for a hearing has been provided. Prior to such hearing, the City shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation, and advising that the permit shall be permanently revoked at the end of **five (5) days** following service of such notice unless within such **five (5) day** period a written petition for a hearing is filed with the City. A hearing shall be provided no later than **five (5) days** from the filing of said petition. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

7-7-12 **INSPECTIONS.**

(A) At least quarterly, each tattooer located in the City shall be inspected. As many additional inspections or reinspections as are necessary for the enforcement of this Article will be made.

(B) The City, or its designee after proper identification, shall be permitted to inspect, at any reasonable time, any tattooer within the City, or its policy jurisdiction, for the purpose of determining compliance with this Article. They shall be permitted to examine records of the tattooer to

obtain information pertaining to supplies purchased, received or used in the act of tattooing and persons employed by the tattooer.

(C) Whenever an inspection of a tattooer is made, a record of findings will be made. A copy will be made available to the permit holder or operator.

(D) Whenever an inspection of a tattooer discovers that any of the provisions of this Article have been violated, the permit holder or operator will be notified of such violations by means of an inspection report form or written notice. In such notifications, a specific and reasonable period of time for the correction of the violation found will be noted.

7-7-13 **PERMIT FEES.** The annual fee for a Tattoo Permit shall be **Two Hundred Fifty Dollars (\$250.00)**. Such fees shall be payable upon receive of an invoice issued by the City. **(Ord. No. 21-11; 08-17-21)**

(Ord. No. 05-32; 12-06-05)

ARTICLE VIII – SPECIAL EVENT PERMITS

7-8-1 **DEFINED.** “Special event,” as used in this Chapter, means any of the activities listed below which occur upon City property, including City parks, public streets, rights-of-way or sidewalks.

- (A) Block parties: street festivals and parties.
- (B) Car shows and motorcycle shows.
- (C) Circus.
- (D) Concerts.
- (E) Festivals.
- (F) Organized athletic events (walk, run, biking, baseball, football, basketball, soccer, softball, skateboarding).
- (G) Organized sporting tournaments.
- (H) Organized parades: excluding the Homecoming Parade, Fall Festival, Strawberry Festival and Holly Jolly Parade.
- (I) Scheduled league sporting events.
- (J) Vehicle cruises, vehicle races and derbies.
- (K) Activities involving the sale, distribution, or consumption of alcoholic liquor.

7-8-2 **PERMIT REQUIRED.** No person or organization shall conduct a special event on City property, including City parks, public streets, rights-of-way or sidewalks, without first having obtained a special event permit from the City.

7-8-3 **PERMIT APPLICATION.** An application for a special event permit shall be submitted to the City Clerk no later than **thirty (30) days** prior to the proposed event. Applicants may file applications as early as desired by the applicant. The following information shall be provided: name, address and telephone number of sponsoring organization or individual; if an organization, name, address and telephone number of chairman/president; purpose of the special event; proposed date, location and hours of operation; schedule of proposed events; proposed route, including areas where police assistance is requested; estimated number of participants, floats, bands and cars/trucks; and such other information as the City deems reasonably necessary to determine that the permit meets the requirements of this Chapter.

7-8-4 **STANDARDS FOR DENIAL OF PERMIT.** Reasons for denial of a special event permit include: the event will disrupt traffic within the City beyond practical solution; will interfere with access to fire stations and fire hydrants; the location of the special event will cause undue hardship to adjacent businesses or residents; the event will require the diversion of so many public employees that allowing the event would unreasonably deny service to the remainder of the City; the application contains incomplete or false information; the applicant fails to comply with all terms of this Chapter, including failure to remit all fees and deposits or failure to provide proof of insurance to the City.

7-8-5 **DEPARTMENTAL COST ANALYSIS.** The City Clerk shall send copies of special event applications to affected departments. Each departmental activity required for the special event shall be itemized. Costs for requested police protection services or services from other departments requiring personnel in addition to regularly scheduled personnel shall be determined. The City reserves the right to charge the sponsor for services.

7-8-6 **PERSONNEL COSTS.** The sponsor shall pay **one hundred percent (100%)** of the personnel costs for requested police protection services and/or services from other departments requiring personnel in addition to regularly scheduled personnel. Regularly scheduled police personnel will be available to assist as requested during the event unless otherwise required to respond to a complaint or emergency. The City reserves the right to charge the sponsor for services.

7-8-7 **INSURANCE REQUIRED.** Permittee shall obtain and present evidence of comprehensive liability insurance naming the City as an additional insured, with a copy of the policy endorsement. The insurance requirement is a minimum of **One Million Dollars (\$1,000,000.00)** per occurrence and **Two Million Dollars (\$2,000,000.00)** aggregate for personal injury, including death, and property damage against all claims arising from permits issued pursuant to this Chapter. If the event poses higher risks than covered by the insurance requirement, the City may require additional insurance coverage up to **Two Million Dollars (\$2,000,000.00)**. Permittee shall obtain and present evidence of liquor liability insurance in the amount of **One Million Dollars (\$1,000,000.00)** combined single limit for any special event which includes the sale, distribution or consumption of alcoholic liquor. Evidence of insurance must be turned into the City Clerk **one (1) week** prior to the special event.

7-8-8 **WAIVER OR RELEASE OF LIABILITY.** If permittee requires participants to sign a waiver or release of liability, the waiver or release of liability shall also include language indemnifying and holding harmless the City, its officers and employees from any and all claims or lawsuits from personal injury, including death, or property damage arising from or in any way connected to the special event; excepting any claims arising solely out of the negligent acts of the City, its officers and employees.

7-8-9 **LIMITATION OF LIABILITY.** This Chapter shall not be construed as imposing upon the City or its officials or employees any liability or responsibility for any injury or damage to any person in any way connected to the use for which permits has been issued. The City and its officials and employees shall not be deemed to have assumed any liability or responsibility by reasons of inspections performed, the issuance of any permit, or the approval of any use of the City property.

7-8-10 **OBLIGATIONS OF PERMITTEE.** Permittee shall notify all participants of any laws or regulations which may apply to the event, including all relevant rules of the road. Permittee is also required to specifically inform private property and business owners, if any, who might be inconvenienced during the event. Permittee must comply with all Federal, State and Local laws, including the City Code.

7-8-11 **SANITATION AND CLEAN-UP.** Permittee shall clean the City property of rubbish and debris, returning it to its pre-event condition, within **twenty-four (24) hours** of the conclusion of the event. If the permittee fails to clean up such refuse, such clean up shall be arranged by the City and the costs charged to permittee.

7-8-12 **REVOCAION OF SPECIAL EVENT PERMIT.** All permits issued pursuant to this Chapter shall be temporary and do not vest any permanent rights. Reasons for revocation of a special event permit include application contained incomplete or false information; applicant does not comply with all terms and conditions of permit; applicant fails to arrange for or adequately remit all fees, deposits, or insurance to the City; and disaster, public calamity, or other emergency exists. Revocation of a special event permit may be appealed by the same person as an appeal which results from denial of a permit.

7-8-13 **APPEAL PROCEDURE.** Any applicant whose special event permit application has been denied or revoked may request a review of this decision by the City. This request must be in writing and received by the City Clerk within **five (5) business days** of the notice of permit denial or revocation. Applicant may appeal the decision of the City Council by filing a written notice of such appeal with the City Clerk within **five (5) business days** of the notice of denial of permittee's appeal by the City. The City Council shall set a hearing date within **fifteen (15) days** of receiving such appeal request. At such hearing, the applicant is entitled to be heard and present evidence in his/her behalf. The City Council shall determine whether the denial or revocation of the permit is justified.

7-8-14 **VIOLATION – PENALTY.** Any person who violates a provision of this Chapter shall be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ord. No. 14-1; 01-07-14)

ARTICLE IX – ADULT USE LICENSING AND REGULATION

7-9-1 **PURPOSE.** The purpose of this Article is to regulate adult uses to protect the community from the many types of criminal activity frequently associated with such uses. The City recognizes that such regulation cannot effectively prohibit such uses, but can balance the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

7-9-2 **DEFINITIONS.**

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

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

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

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

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

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

(F) **Public Place.** Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. Public places shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar religious

ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or a university supported entirely or partly by taxation or an accredited private college.

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

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

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

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

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

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

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

- (1) Prostitution or promotion of prostitution; dissemination of obscenity; sale distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; public indecency; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- (2) For which:
 - (a) less than **two (2) years** have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense;
 - (b) less than **five (5) years** have elapsed since the date of conviction or the date of release from confinement for conviction, whichever is the later date, if the conviction is a felony offense; or
 - (c) less than **five (5) years** have elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of **two (2)** or more misdemeanor offenses or combination of misdemeanor offenses occurred within any **twenty-four (24) month** period; and
- (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

7-9-3 **LICENSE REQUIRED.**

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

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

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

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

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

- (1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is **eighteen (18) years** of age;
- (2) If the applicant is a club, consisting of private or public membership, a copy of the by-laws of the club must be submitted with the application. In addition, a sworn statement as to the purposes, general activities and requirement for club membership must be submitted.
- (3) If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and
- (4) If the applicant is a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, (those with a **twenty percent (20%)** or more stake) and the name and address of the registered corporate agent.

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

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

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

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

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

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

7-9-4 **ISSUANCE OF LICENSE.**

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

- (1) The applicant is under **eighteen (18) years** of age;
- (2) The applicant is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;
- (3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form;
- (4) The applicant has been denied a license by the City to operate an adult use business within the preceding **twelve (12) months** or whose license to operate an adult use business has been revoked within the preceding **twelve (12) months**;
- (5) The applicant has been convicted of a specified criminal activity defined in this Article.
- (6) The premises to be used for adult use business has not been inspected and approved by the Fire Department and the Building Department as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this Article has not been paid.
- (8) The applicant of the proposed establishment is in violation or not in compliance with all of the provisions of this Article.

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

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

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

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

7-9-5 **LIQUOR.** No liquor license shall be issued to a licensee or to premises where adult use is conducted, nor shall liquor be sold, given away or allowed to be consumed on the premises where any adult use is conducted.

7-9-6 **FEES.** Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **Seven Hundred Fifty Dollar (\$750.00)** non-refundable application and investigation fee.

7-9-7 **INSPECTION.**

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

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

7-9-8 EXPIRATION OF LICENSE.

(A) Each license shall expire on the **January 1** after it was issued and may be renewed only by making application as provided in **Section 7-9-4**. Application for renewal shall be made at least **thirty (30) days** before the expiration date and when made less than **thirty (30) days** before the expiration date, the expiration of license will not be affected.

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

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

- (A) violated or is not in compliance with any section of this Article;
 - (B) refused to allow an inspection of the adult use business premises as authorized by this Article, or
 - (C) knowingly permitted gambling by any person on the adult use business premises.
- If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this Article, no hearing is necessary prior to suspension of the license.

7-9-10 REVOCAION.

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

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

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

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

7-9-11 **TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another nor shall a licensee operate an adult use business under the authority of a license at any place other than the address on the license.

7-9-12 **BUSINESS RECORDS.** All adult uses shall file a verified report with the City showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

7-9-13 **LIQUOR LICENSE.** No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

7-9-14 **ADULT ENTERTAINMENT CABARETS – RESTRICTIONS.** All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

7-9-15 **VIDEO VIEWING BOOTHS – RESTRICTIONS.** No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions of a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

7-9-16 **HOURS OF OPERATION.** No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

7-9-17 **INVESTIGATION.** Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

ARTICLE X – FIREWORKS CODE

7-10-1 DEFINITIONS. The following definitions shall apply to this Article:

Chief shall mean the Wade Community Fire Protection District Fire Chief or his designee.

Class B Fireworks shall mean those fireworks regulated by the Bureau of Alcohol, Tobacco, and Firearms as defined by applicable state and federal law. They are considered professional grade fireworks.

Facility shall mean any tent, building, enclosure, or similar structure used for the sale, offering for sale or display of fireworks.

Fireworks shall have that meaning as defined in **425 ILCS 30/2(a)** and shall include fireworks identified as Class C fireworks pursuant to applicable state and federal law.

Fireworks Sale Permit shall mean the permit issued by the Chief authorizing the sale, offering for sale, or display for sale of fireworks within the corporate boundaries of the City.

Permittee shall mean a person, corporation, firm, partnership or association applying for a fireworks sales permit as provided for herein, or otherwise being authorized to sell, offer for sale, display for sale fireworks pursuant to this Article.

7-10-2 RESTRICTIONS.

(A) No person, corporation, firm, partnership or association shall sell, offer for sale, or display for sale fireworks within the corporate boundaries of the City unless said person, corporation, firm, partnership or association has been issued a fireworks sale permit as provided for herein.

(B) No person, corporation, firm, partnership or association shall sell, offer for sale, display for sale, or use Class B fireworks within the corporate boundaries of the City unless said person, corporation, firm, partnership or association has been so authorized by the Bureau of Alcohol Tobacco and Firearms pursuant to applicable state and federal law. An application for permit for Class B fireworks in the form of **Exhibit "B"** must also be completed and approved by the City.

(C) No person, corporation, firm, partnership or association shall sell, offer for sale or display for sale consumer fireworks from a tent unless the following conditions are met:

- (1) The tent may not be larger than **one thousand five hundred (1,500) square feet**.
- (2) There may be only **one (1) tent** for each permit granted.
- (3) The tent may not be located closer than **one hundred (100) feet** from a permanent structure.
- (4) A vehicle may not be parked closer than **twenty (20) feet** from the edge of the tent.
- (5) The tent must be fire retardant.
- (6) The sales site must comply with all applicable local zoning and land use rules.
- (7) Sales of fireworks may be made from the tent for not more than **forty-five (45) days** in a year.
- (8) The weight of consumer fireworks in a tent may not exceed **three thousand (3,000) gross pounds** of consumer fireworks.

7-10-3 PERMIT. Any person, corporation, firm, partnership or association desiring to sell, offer for sale, or display for sale Class C fireworks within the corporate boundaries of the City shall first apply for a fireworks sale permit with the City Clerk by filing the fireworks sale permit application, a true and accurate copy of which is attached hereto as **Exhibit "A"** and hereby incorporated by reference as though fully stated herein. The fireworks sales permit shall be required in addition to any other permits required by local ordinances.

7-10-4 PERMIT ISSUANCE.

(A) Within a reasonable time following the receipt of a fireworks sales permit application, the Chief shall conduct such investigation as the Chief deems necessary into the background of the permittee, the facilities, and any other matters that the Chief deems necessary for the protection of the health and safety of the community. The Chief shall deny all fireworks sales permit applications unless:

- (1) The facility is equipped with at least **one (1) ten (10) pound** ABC fire extinguisher.
- (2) The permittee has proof of insurance coverage in a minimum amount of:
 - (a) **One Million Dollars (\$1,000,000.00)** of product liability coverage.
 - (b) **One Million Dollars (\$1,000,000.00)** of premises liability coverage.
- (3) The facility is equipped with adequate signs reading "CAUTION – FIREWORKS – NO SMOKING." Such signs shall be placed in each corner of the facility and over each entrance to the facility.
- (4) All electrical outlets in or provision for electrical service to the facility shall be ground fault interface.
- (5) The permittee executes an authorization for release of personal information, a true and accurate copy of which is attached hereto as **Exhibit "C"** and hereby incorporated by reference as though fully stated herein.

(B) The Chief shall deny any fireworks sales permit application if, in the exercise of his official authority and discretion, determines that:

- (1) The facility poses an unreasonable danger to the health and safety of the community.
- (2) The facility is located, operated, constructed, or maintained in an unsafe manner.
- (3) The permittee has been convicted of a violation of the Illinois Fireworks Regulation Act of Illinois, the Illinois Fireworks Use Act, or any applicable local, state or federal law regulating the use, display or sale of fireworks.
- (4) The permittee has been convicted of a felony offense in the State of Illinois or any other state.

(C) If the provisions of subsections (A) and (B) are met to the satisfaction of the Chief, then the Chief shall issue to the permittee a fireworks sales permit in the form of **Exhibit "D"**, which is attached hereto and hereby incorporated by reference as though fully stated herein.

(D) Fireworks sales permits shall not be transferable or assignable. The transfer or assignment of a fireworks sales permit to any person, corporation, firm, association, or partnership shall serve to terminate the fireworks sales permit.

7-10-5 PERMIT FEE. Upon issuance of a fireworks sales permit, the permittee shall pay to the City Clerk a permit fee in the amount of **Two Hundred Dollars (\$200.00)**, to be divided **One Hundred Dollars (\$100.00)** to the City and **One Hundred Dollars (\$100.00)** to the Fire Protection District.

7-10-6 TERM OF PERMIT. A fireworks sale permit shall be valid for a period of **ninety (90) days** from the date of issuance by the Chief.

7-10-7 INSPECTION.

(A) The Chief shall be authorized to inspect the facility at any time, with or without notice to permittee. In the event the Chief determines that a violation of this Article has occurred, the Chief shall:

- (1) Notify the City Police Department;
- (2) Order the permittee to cease selling, offering for sale, or displaying for sale fireworks;
- (3) Immediately revoke the permittee's fireworks sales permit;
- (4) Take necessary steps to close the facility and otherwise prevent the permittee from selling, offering for sale or displaying for sale fireworks within the corporate boundaries of the City; and
- (5) Direct the City Police Department to issue appropriate citations to the permittee or such person, corporation, association or partnership violating this Article, or to take such other action as authorized by applicable law, including but not limited to the arrest of the permittee or such person, corporation, association or partnership violating this Article.

(B) The Chief of Police and City Police Department personnel are hereby directed to cooperate with the Chief in the enforcement of this Article.

7-10-8 **HOURS OF OPERATION.** The permittee shall not operate the facility, nor shall the permittee sell, offer for sale, or display for sale fireworks within the corporate boundaries of the City except during the hours of **9:00 A.M. to 9:00 P.M.**, Monday through Sunday. Operation of the facility or the sale, offer for sale, or display for sale of fireworks during any other hours shall be a violation of this Article.

7-10-9 **VIOLATIONS OF THIS ARTICLE.** Any person, corporation, firm, partnership, or association found to have violated this Article shall be guilty of a Class C misdemeanor, punishable by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Five Hundred Dollars (\$500.00)**. Any second or subsequent violation of this Article shall be a Class B misdemeanor, punishable by a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Five Hundred Dollars (\$500.00)**, and a term of incarceration in the Jasper County jail up to **six (6) months**.

(Ord. No. 16-07; 10-18-16)

EXHIBIT "A"

APPLICATION FOR PERMIT FOR SALE OF CONSUMER FIREWORKS

A. We hereby make application for a permit to conduct sale of Consumer Fireworks during the period from _____ to _____, 20_____, between the hours of 9:00 a.m. to 9:00 p.m.

B. Full Name, address, and phone number of Applicant:

C. Description of name, address, phone number, date of birth, experience and physical characteristics of all persons designated to assist with the selling of the Consumer Fireworks:

D. Numbers and kinds of Consumer Fireworks:

E. Manner and place of storage of Consumer Fireworks:

I certify that the facts contained in this application are true and complete to the best of my knowledge. I do hereby authorize a review of and full disclosure of all records concerning me including, but not limited to an investigative consumer report and/or a report from any law enforcement agency, to any duly authorized Officer of the City of Newton or Wade Community Fire Protection District Fire Department, whether the said records are of a public, private or confidential nature.

Attach proof of public liability insurance in the amount of not less than \$ 1,000,000.00 naming the City of Newton as an additional insured on a primary, non-contributory basis:

Yes _____ No _____

Attach \$1,000 public liability bond or cash bond with the City of Newton

Yes _____ No _____

Attach \$200.00 Consumer fireworks Display fee. Yes _____ No _____

Attach copy of proof of consumer fireworks training approved by the Office of the State Fire Marshall. Yes _____ No _____

Attach copies of releases of personal information and affirmation of all Consumer Fireworks Display assistants. Yes _____ No _____

All accidents must be reported by mail to the office of City of Newton or Wade Community Fire Protection District within twenty-four (24) hours of the occurrence.

Signatures of Applicants:

EXHIBIT "B"

**APPLICATION FOR PERMIT FOR PUBLIC EXHIBITION OF
PYROTECHNIC DISPLAY**

A. We hereby make application or a permit to conduct a Public Exhibition of a Pyrotechnic Display on the _____ day of _____, 20____, between the hours of _____ a.m. to _____ p.m.

Said display to be held at _____

B. Full Name, address, and phone number of Applicant sponsoring the Pyrotechnic Display:

C. Description of name, address, phone number, date of birth, experience and physical characteristics of all persons designated to assist with the set-up of the Pyrotechnic Display at the Public Exhibition: _____

D. Numbers and kinds of Display Fireworks or Flame Effects to be discharged duping the Public Exhibition: _____

E. Manner and place of storage of Display Fireworks or Flame Effects prior, during, and after the Public Exhibition: _____

I certify that the facts contained in this application ae true and complete to the best of my knowledge. I do hereby authorize a review of and full disclosure of all records concerning me including, but not limited to an investigative consumer report and/or a report from any law enforcement agency, to any duly authorized Officer of the City of Newton or Wade Community Fire Protection District, whether the said records are of a public private or confidential nature.

Attach proof of public liability insurance in the amount of not less than \$1,000,000.00, naming the City of Newton as an additional insured on a primary, non-contributory basis:

Yes _____ No _____

Attach \$1,000 public liability bond or cash bond with the City of Newton:

Yes _____ No _____

Attach \$200.00 Consumer fireworks Display fee. Yes _____ No _____

Attach copy of proof of Class B fireworks training approved by the Office of the State Fire Marshall. Yes _____ No _____

Attach copies of releases of personal information and affirmation of all Class B Fireworks Display assistants. Yes _____ No _____

All accidents must be reported by mail to the office of City of Newton or Wade Community Fire Protection District within twenty-four (24) hours of the occurrence.

Signatures of Applicants:

EXHIBIT "C"

(CLASS C FIREWORKS)

**AUTHORIZATION FOR RELEASE OF PERSONAL INFORMATION AND
AFFIRMATION OF CONSUMER OPERATOR AND ASSISTANTS
OF CONSUMER FIREWORKS SALES**

I, _____, SSN; _____ Date of Birth: _____ do hereby authorize a review of and full disclosure of all records concerning me including, but not limited to an investigative consumer report and/or a report from any law enforcement agency, to any duly authorized Officer of the City of Newton or Wade Community Fire Protection District, whether the said records are of a public, private or confidential nature.

I _____, further solemnly swear or affirm that I am:

1. At least 21 years of age; and,
2. Have not been declared incompetent by any competent court by reasons of mental or physical defect or disease; and,
3. Do not have any addiction to or dependency on alcohol or drugs; and,
4. Have not been convicted in any jurisdiction of any felony within the past five years; and,
5. Am not a fugitive from justice.

By: _____

EXHIBIT "C"

(CLASS B FIREWORKS)

**AUTHORIZATION FOR RELEASE OF PERSONAL INFORMATION AND
AFFIRMATION OF ASSISTANTS TO PYROTECHNIC DISPLAY**

I, _____, SSN: _____ Date of Birth: _____ do hereby authorize a review of and full disclosure of all records concerning me including, but not limited to an investigative consumer report and/or a report from any law enforcement agency, to any duly authorized Officer of the City of Newton or Wade Community Fire Protection District, whether the said records are of a public, private or confidential nature.

I _____, further solemnly swear or affirm that I am:

1. At least 21 years of age; and,
2. Registered to assist a Licensed Lead Pyrotechnics Operator with the Office of the Illinois State Fire Marshall; and,
3. Have not been declared incompetent by any competent court by reasons of mental or physical defect or disease; and,
4. Have not willfully violated any provision of the Pyrotechnic Distributor and Operator Licensing Act, 227 ILCS 21/1 et seq.; and,
5. Do not have any addiction to or dependency on alcohol or drugs; and,
6. Have not been convicted in any jurisdiction of any felony within the past five years; and,
7. Am not a fugitive from justice.

By: _____

EXHIBIT "D"

FIREWORKS SALES PERMIT

Pursuant to City of Newton, Illinois Ordinance No. _____, and the Fireworks Regulation Act of Illinois, 425 ILCS 30/1 et. seq., the Wade Community Fire Protection District Fire Chief hereby grants a Fireworks Sales Permit to:

Name: _____

Address: _____

Phone #: _____

This Permit authorized the above-named Permittee to sell, offer for sale, and display for sale fireworks within the corporate boundaries of the City of Newton, Illinois in accordance with the regulations set forth in Ordinance No. _____ and applicable State and Federal Law at the facility located at:

This Permit may be revoked by the Wade Community Fire Protection District Fire Chief as provided for in Ordinance No. _____. The Permittee has paid to the City of Newton the sum of \$_____ as to a permit fee. This Permit shall expire ninety (90) days from the date of issuance. This Permit is non-transferrable and non-assignable. This Permit shall terminate if transferred or assigned.

THE PERMITTEE HEREBY KNOWINGLY AND VOLUNTARILY GRANTS HIS/HER CONSENT TO THE WADE COMMUNITY FIRE PROTECTION DISTRICT FIRE CHIEF, HIS DESIGNEE, OFFICERS OF THE CITY OF NEWTON POLICE DEPARTMENT, AND OTHER LAW ENFORCEMENT OFFICERS ASSISTING THEM TO SEARCH THE FOLLOWING AT ANY TIME WITH OR WITHOUT NOTICE:

The facility located at _____,
Including any part, container, compartment, vehicle, motor vehicle, object, box, contents, items or are located within or immediately surrounding said facility.

SIGNED: _____
_____, Permittee

SIGNED: _____
_____, Fire Chief of Wade Community Fire Protection District

DATE OF ISSUANCE: _____

CITY OF NEWTON

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 JASPER) ss.
CITY OF NEWTON)

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

MAYOR
CITY OF NEWTON

COUNTERSIGNED:

CITY CLERK
CITY OF NEWTON

(SEAL)

CITY OF NEWTON

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 non-for-profit character of the applicant organization.

(NAME OF ORGANIZATION)

Dated this ____ day of _____, 20__.

PRESIDING OFFICER

SECRETARY

STATE OF ILLINOIS)
)
COUNTY OF JASPER)

Signed and sworn to before me this _____ day of _____, 20__.

PRESIDING OFFICER

SECRETARY

NOTARY PUBLIC

SINGLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

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

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

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

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

Date: _____ Time: _____

Location: _____

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LCOATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the City of Newton and the Corporate Seal thereof, this _____ day of _____, 20____.

MAYOR
NEWTON, ILLINOIS

CITY CLERK
NEWTON, ILLINOIS

(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, time 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 Newton and the Corporate Seal thereof, this _____ day of _____, 20____.

MAYOR
NEWTON, ILLINOIS

CITY CLERK
NEWTON, ILLINOIS

(SEAL)

CITY OF NEWTON

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: _____

Date: _____ Time: _____
Location: _____

APPLICANT/FIELD CHECK

INFORMATION CARD

Name	Location Date Time
Residence Address	D.L.#
Business Address Info	Vehicle Color Yr. Body License
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

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CHAPTER 8

CABLE TELEVISION

ARTICLE I – CABLE/VIDEO SERVICE PROVIDER FEE
AND PEG ACCESS FEE

8-1-1 following meanings:

DEFINITIONS. As used in this Article, the following terms shall have the

(A) ***"Cable Service"*** means that term as defined in 47 U.S.C. § 522(6).
 (B) ***"Commission"*** means the Illinois Commerce Commission.
 (C) ***"Gross Revenues"*** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City.

- (1) Gross revenues shall include the following:
 - (a) Recurring charges for cable or video service.
 - (b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
 - (c) Rental of set top boxes and other cable service or video service equipment.
 - (d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
 - (e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
 - (f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
 - (g) A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
 - (h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).
 - (i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
 - (j) The service provider fee permitted by 220 ILCS 5/22-501.
- (2) Gross revenues do not include any of the following:

- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/22-501.
 - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
 - (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
 - (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/22-501 with respect to the service.
 - (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
 - (f) Security deposits collected from subscribers.
 - (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/22-501) which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/22-501.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/22-501.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/22-501 by the holder to a City for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

8-1-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the City.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues.

(C) **Notice to the City.** The holder shall notify the City at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the City.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the City. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/22-501 to the City.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/22-501(c) with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under the law.

8-1-3 PEG ACCESS SUPPORT FEE IMPOSED.

(A) **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to **Section 8-1-2(B)**.

(B) **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City.

(C) **Payment.** The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in **Section 8-1-2(D)**.

(D) **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/22-501** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-1-3(B)**.

8-1-4 APPLICABLE PRINCIPLES. All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

8-1-5 **NO IMPACT ON OTHER TAXES DUE FROM HOLDER.** Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

8-1-6 **AUDITS OF CABLE/VIDEO SERVICE PROVIDER.**

(A) **Audit Requirement.** The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

8-1-7 **LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

(See 220 ILCS 5/22-501)

ARTICLE II - CABLE AND VIDEO CUSTOMER PROTECTION LAW

8-2-1 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.

(A) **Adoption.** The regulations of 220 ILCS 5/22-501 are hereby adopted by reference and may applicable to the cable or video providers offering services within the City's boundaries.

(B) **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the City's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the City.

8-2-2 ENFORCEMENT. The City does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the City.

8-2-3 CUSTOMER CREDITS. The City hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/22-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

8-2-4 PENALTIES. The City, pursuant to 220 ILCS 5/22-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B) The City shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).

ARTICLE III - CABLE TELEVISION FRANCHISE

8-3-1 **SHORT TITLE.** This franchise shall be known and may be cited as the City of Newton Cable Television Franchise.

8-3-2 **DEFINITIONS.** For the purpose of this franchise the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(A) **"Basic Cable Service"** shall mean any service tier which included the retransmission of local television broadcast signals as defined by Section 76.5(ii) of the Rules and Regulations of the Federal Communications Commission.

(B) **"City Council"** is the City Council of the City of Newton.

(C) **"Cable Service" or "Cable Television Service"** means:

- (1) the one-way transmission to subscribers of video programming or other programming services;
- (2) subscriber interaction, if any, which is required for the selection of such programming; and
- (3) any other communications or other electronic services which the Company proposes, now or in the future, to provide to its subscribers over its cable system.

(D) **"Cable Television System", "Cable System" or "CATV System"** means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community.

(E) **"Company"** is the grantee of rights under this franchise and is known as Telecommunications Management, LLC d/b/a NewWave Communications.

(F) **"FCC"** is the United States federal agency known as the Federal Communications Commission.

(G) **"Gross Annual Receipts"** shall mean any and all compensation and other consideration received by the Company from cable television subscribers in payment for receipt of normal monthly cable service within the City of Newton; provided, however, that gross annual receipts shall not include one-time revenues such as charges for installation, reconnection, relocation, modification of installation, inspection or repair, system revenue not earned from subscribers, the amount of any franchise or copyright fees passed on to subscribers or any taxes, fees, or charges on or for services furnished by the Company herein imposed directly or indirectly on any subscriber by any state, city or other governmental unit or third party and collected by the Company on behalf of such entity.

(H) **"Municipality"** is the City of Newton, in Jasper County in the State of Illinois.

(I) **"Optional Channel(s)"** shall mean such other channel or channels, not included in basic service, which may be made available to subscribers by the Company at an additional charge on an optional basis.

(J) **"Person"** is an individual, firm, partnership, association, corporation, company or organization of any kind.

(K) **"Premium Channel(s)"** shall mean specialized service such as Home Box Office and/or other premium entertainment services that may be made available by the Company.

8-3-3 **GRANT OF AUTHORITY.**

(A) The Company is granted the non-exclusive right to construct on, through, along, under and over the streets, highways, easements, sidewalks, rights-of-way, and all other public places and public ways of the City of Newton, Illinois, a distribution system for a cable television service which system is to include, but not necessarily to be limited to, line or lines of wire, cables, or other conductors,

together with all necessary feeders or service wires, poles and other attachments, devices or apparatus necessary to or usually used in connection with such a system; to maintain and keep said system in proper condition after its construction; and to operate said system in the usual and customary manner.

(B) This franchise includes the right for the Company to make such contracts as it deems necessary and proper and is able to negotiate with those public utilities and public service corporations, permitting it to use the existing utility poles, conduit, and facilities for its installation and to erect any necessary poles, conduit, and facilities for its use.

(C) This grant and privilege is made upon the terms and conditions hereinafter set forth.

(D) The Municipality shall not grant any franchises or other types of authorizations for cable service to other persons on terms or conditions any more favorable or less burdensome than those in its existing franchise agreement with the Company or any amendment thereto.

8-3-4 CONSTRUCTION STANDARDS.

(A) All work performed in the construction, operation, maintenance and repair of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All construction, including installation, shall conform to all applicable federal and state laws and regulations, ordinances, local laws and regulations and the National Electric Safety Code. The Company shall provide to the Municipality, on request, all maps, plans and specifications as to proposed installations and shall keep the Municipality informed as to any proposed changes or alterations in same.

(B) Any municipal property damaged or destroyed by Company shall be repaired or replaced by Company and restored to serviceable condition to the reasonable satisfaction of the Municipality.

(C) The Company shall have the authority to trim trees upon and overhanging all streets, alleys, easements, sidewalks and other public places so as to prevent the branches of such trees from coming into contact with the facilities of the Company.

(D) The Company shall, upon **seventy-two (72) hours** advance written notice from any person holding an appropriate permit issued by the Municipality, temporarily raise or lower its lines to permit the moving of any building or structure. The actual expense of such temporary removal shall be paid by the person requesting the same and the Company shall have the right to require payment in advance for such temporary removal.

8-3-5 LINE EXTENSION POLICY. It shall be the obligation of the Company to serve all residents of the City, without regard to the income level of the residents of the local area in which any group of potential subscribers resides, to the extent that the density of homes, terrain and other factors render providing service economically compensatory, practicable, and technically feasible.

8-3-6 INDEMNIFICATION AND INSURANCE.

(A) The Company shall at all times defend, indemnify and save harmless the said City of Newton, members of its City Council and its officers and employees from and against any and all actions, suits, damages, costs, charges and expenses by reason of the location, maintenance and operation of the cable system in any streets, highways or other public places of the City of Newton, by the Company in connection with the operation of its cable system in the City of Newton.

(B) The Company shall at all times maintain in continuous effect throughout the term of this franchise a general liability insurance policy covering claims for liability and damages. It shall include, at a minimum, the following types of insurance coverage:

- (1) property damage -- not less than **One Million Dollars (\$1,000,000.00)** for each occurrence;
- (2) personal and bodily injury -- not less than **One Million Dollars (\$1,000,000.00)** for each occurrence.

(C) A Certificate for the above required minimum insurance, in form satisfactory to the City Attorney, shall be submitted to the City of Newton, upon the execution of this Agreement. The policy shall require that the insurance carrier must give written notice to the Company and the Municipality **thirty (30) days** prior to a cancellation of or a material change in the policy.

8-3-7 **FRANCHISE FEE.**

(A) The Company shall pay to the City of Newton, a franchise fee of **three percent (3%)** of its basic and premium TV revenue from its cable television operations in the City of Newton.

(B) The aforesaid payments shall be made to the City of Newton, without demand, on or before the **seventy-fifth (75th) day** after the end of the quarter. The Company shall keep accurate records of its gross annual receipts during the **twelve (12) months** period preceding the aforesaid payments and shall submit a summary of said records in the form of Exhibit A to the City of Newton along with its payments.

(C) The Company shall keep its books and records open for inspection during normal business hours, upon reasonable notice, to the duly authorized officials or agents of the City of Newton. Any information coming into the possession of the City as a result of this Agreement shall be treated as confidential and shall not be subject to public disclosure.

8-3-8 **RATES AND CHARGES.** A schedule of the current rates and charges currently imposed by the Company shall:

(A) be on file at all times during the term of this franchise with the City Council;

(B) furnished to each subscriber upon initial connection to the Company's cable system.

8-3-9 **COMPLAINT PROCEDURES.** The Company shall maintain a toll-free telephone, for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters. The Company shall give notice to each subscriber at the time of initial connection to the cable system of the established complaint procedures, that is, the address and telephone number to which inquiries or complaints are to be addresses. Notwithstanding circumstances beyond the Company's control, all service calls will be completed in a prompt and diligent manner and all system related outages will be responded to within a **twenty-four (24) hour** period.

8-3-10 **BOOKS AND RECORDS.**

(A) The Municipality reserves the right to inspect all pertinent books, records, maps, plans, financial statements and other like materials of the Company which pertain to the cable system, upon reasonable notice and during regular business hours. Such information shall be treated as confidential and shall not be disclosed by the Municipality or its agents to the public or to any third party.

(B) The Municipality shall abide by federal laws applicable to the Company or the cable system governing subscriber privacy with respect to any personally identifiable subscriber information that comes into its possession pursuant to its right to inspect the Company's books and records under this franchise.

8-3-11 **DURATION AND RENEWAL.** This agreement shall remain in full force and effect for a period of **ten (10) years** from the date of this Agreement. Thereafter renewal of the franchise shall be governed by applicable federal law.

8-3-12 **GOVERNING LAW.** This agreement is subject to all applicable provisions of the Communications Act of 1934, as amended, and regulations promulgated by the FCC pursuant thereto, as well as state laws or regulations governing cable television operations not inconsistent therewith.

8-3-13 **SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this franchise agreement is for any reason held invalid by any court or agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of the franchise agreement.

8-3-14 **SUCCESSORS AND ASSIGNS.** The rights and privileges and all of the obligations, duties and liabilities created by this agreement shall pass to and be binding upon the successors of the City and the successors, transferees, representatives and assigns of the Company, however, the Company shall not sell assign or otherwise transfer this contract without written consent of the City.

8-3-15 **NONCOMPLIANCE.** The City shall notify the Company in writing of any alleged violation/breach or failure to meet any of the material terms or provisions in this agreement. The Company shall have **thirty (30) days** from the date of receipt of the written notice to correct or remedy the violation/breach or failure to meet any of the material terms or provisions of the contract.

If not corrected or remedied within said **thirty (30) day** period, the City will give **ten (10) days** prior written notice to Company of a public hearing to be conducted by the City to determine if the Company is diligently pursuing reasonable actions to cure the alleged violation/breach or to determine if there are circumstances beyond its control which prevent the Company from curing the alleged violation/breach. The Company will have the right to be represented by attorneys and to present such evidence as it shall desire concerning the alleged violation/breach and related issues at such public hearing.

If, following the public hearing the City determines that the Company remains in violation/breach and is not diligently pursuing reasonable actions to cure the violations/breaches, the City may so declare and terminate this contract without further notice, hearing or other procedural requirement of or by the City to effect termination of this contract.

The Company shall have the right to appeal the City's action to the appropriate state or federal judicial or administrative forum in the manner and within the time as provided by the law of such forum.

8-3-16 **NOTICES.** All official correspondence should be sent certified mail, return receipt requested. The Company should be notified at:

J. Keith Davidson
Chief Financial Officer NewWave Communications
One Montgomery Plaza, 4th Floor
Sikeston, MO 63801
573-481-2403

(Ord. No. 09-7; 07-07-09)

ARTICLE IV – NEW WAVE CABLE FEE

8-4-1 **FEE IMPOSED.** Telecommunications Management LLC, dba NewWave shall pay an annual service provider fee to the City in an amount equal to **three percent (3%)** of annual gross revenues derived from the provision of cable or video service to households located within the City. The **twelve (12) month** period for the computation of the service provider fee shall be a calendar year.

8-4-2 **PAYMENT DUE.** The service provider fee payment shall be due quarterly and payable within **forty-five (45) days** after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation. If mailed, the fee shall be considered paid on the date it is postmarked.

8-4-3 **DEFINED.** For purposes of the calculation of the service provider fee, “gross revenues” shall mean consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by Telecommunications Management LLC, dba NewWave for the operation of its cable system to provide cable or video service within the City, including the following: (i) recurring charges for cable service or video service; (ii) event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges; (iii) rental of set-top boxes and other cable service or video service equipment; (iv) service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges; (v) administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges; (vi) late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments; (vii) a pro rata portion of all revenue derived by the cable system from advertising or for promotion or exhibition of any products or services; and (viii) a pro rata portion of compensation derived by the cable system from the promotion or exhibition of any products or services sold by “home shopping” channels or similar services carried by the cable system.

8-4-4 **CALCULATION OF FEE.** For purposes of the calculation of the service provider fee, “gross revenues” shall not include: (i) revenues not actually received, even if billed, such as bad debt; (ii) the service provider fee or any tax, fee or assessment of general applicability; (iii) any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, voice over internet protocol (VoIP) services, information services, the provision of directory or Internet advertising, or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder’s books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders; (vi) security deposits collected from subscribers, or (vii) any amounts paid by subscribers to “home shopping” or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

(Ord. No. 18-08; 06-19-18)

ADDENDUM "A"

CONSENT AND APPROVAL OF LOCAL FRANCHISING AUTHORITY FOR EXTENSION OF CATV FRANCHISE

WHEREAS, Telecommunications Management, LLC d/b/a NewWave Communications currently owns and operates the cable television system (the "System") operating in NEWTON, ILLINOIS ("Grantor") and is the duly authorized holder of a Franchise, permit, license, or other authorization granted by Grantor (as amended to date, the "Franchise"); and

WHEREAS, Grantee seeks an extension of said franchise for a term of ten (10) years, so that the Franchise shall be extended to July 6, 2029 and

WHEREAS, following review and investigation, Grantor has concluded that Grantee meets the necessary criteria to operate the cable television system and has satisfied the criteria set forth in and/or under any applicable laws, rules and regulations.

NOW, THEREFORE, BE IT RESOLED, that in consideration of the foregoing and the promises set forth herein, Grantor resolves as follows:

1. Grantor hereby consents to the extension of said Franchise for a term of ten (10) years, so that the Franchise shall be extended to July 6, 2029.

2. Grantor confirms that (a) the Franchise was properly granted to or transferred to the Grantee, (b) the Franchise represents the entire understanding of the parties and Grantee has no obligations to Grantor other than those specifically stated in the Franchise, and (c) Grantee is materially in compliance with the provisions of the Franchise, and there are no material defaults under the Franchise or events which, with the giving of notice or passage of time or both, could constitute events of default thereunder.

3. Grantor hereby consents to and approves the assignment, mortgage, pledge, or other encumbrance, if any of the Franchise, the System, or assets relating thereto, are used as collateral for a loan.

ADOPTED AND APPROVED THIS 16TH DAY OF AUGUST, 2016.

By: _____ /s/ Mark Bolander

Name: _____ Mark Bolander

Title: _____ Mayor

CHAPTER 9 – CEMETERY

<u>ARTICLE</u>		<u>TITLE</u>	<u>PAGE</u>
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	<i>Section 9-1-1</i>	- <i>Cemetery Charges Established</i>	<i>9-1</i>
	<i>Section 9-1-2</i>	- <i>City Shall Control Improvements</i>	<i>9-1</i>
	<i>Section 9-1-3</i>	- <i>Work to be Done by City</i>	<i>9-1</i>
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	<i>Section 9-1-6</i>	- <i>Disinterment</i>	<i>9-2</i>

CHAPTER 9

CEMETERY

9-1-1 **CEMETERY CHARGES ESTABLISHED.** The following charges shall apply to all City of Newton cemeteries:

(A) The charges for all grave openings shall be the City's costs plus **Twenty-Five Dollars (\$25.00)**.

(B) The charge for burial of cremation remains shall be **Two Hundred Dollars (\$200.00)**.

(C) The charge for a gravesite shall be **Three Hundred Dollars (\$300.00)** each. (Ord. No. 17-04; 03-02-17)

9-1-2 **CITY SHALL CONTROL IMPROVEMENTS.** All improvements or alteration of individual property in the cemetery shall be made under the direction of and subject to the consent, satisfaction and approval of the City; and, should they be made without its written consent, the City shall have the right to remove, alter or change such improvements or alterations at the expense of the lot owner, at any time.

The City reserves the right to remove from any lot, anything that it deems unsightly, or which in any way conflicts with the City's Rules and Regulations, or general beauty of the cemetery. If any tree, shrub or plant standing on any lot, by means of its roots, branches or otherwise, is or becomes detrimental to adjacent lots or avenues, or if for any other reason its removal is deemed necessary, the City shall have the right to remove such tree, shrub or plant or any part thereof, or otherwise correct the condition existing as in its judgment seems best, and without any notice to any interested person. (Ord. No. 10-21; 09-07-10)

9-1-3 **WORK TO BE DONE BY CITY.** All grading, landscape work and improvements of any kind, and all care on lots, shall be done and all trees and shrubs and ground cover of any kind shall be planted, trimmed, cut or removed only by the City, provided, the City may, approve the grounds work to be performed by an agent or agents, which work shall be supervised by the City. All mowing, grave digging, monumental work must be done according to OSHA standards. All contractors hired must sign "Hold Harmless Indemnification" and provide the City with proof of insurance. (Ord. No. 10-21; 09-07-10)

9-1-4 **DECORATIONS.** No floral receptacles may be installed on any space, lot, crypt or niche, unless approved by the City. Fresh cut flowers are allowed in approved vases at any time. Ground decorations and potted plants are not allowed from **March 15 to October 31**, except **five (5) days** before to **five (5) days** after Easter, Mother's Day, Memorial Day and Father's Day. Arrangements in monument vases, or saddles on monuments or shepherd hooks are permitted anytime. Winter decorations shall be removed from the cemetery on or before **March 15** of each year.

Private plantings of annuals or perennials is not permitted.

The City shall have authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or groundcover of any kind from the cemetery as soon as, in the judgment of the City, they become unsightly (faded, discolored, weather damaged, dislodged, or not in season), dangerous, detrimental, or when it does not conform to the standards maintained. The City shall not be responsible for lost, misplaced or broken flower vases. The City shall not be responsible for any wreath, spray, floral decorations, plants, herbage or plantings of any kind damaged by the elements, thieves, vandals or by other causes beyond the City's control. The City reserves the right to regulate the method of decorating lots so that a uniform beauty may be maintained. The City reserves the right to prevent the placement of any flowers, floral designs, trees, shrubs or plants of any kind unless it gives its consent. (Ord. No. 10-21; 09-07-10)

9-1-5 **PLANTINGS.** No planting of any trees, shrubs, flowers or bulbs will be allowed in the cemetery without the permission of the City, as to the kind and location of such planting. Any placed without permission are subject to removal by the City.

Nursery plantings require experience and oftentimes special equipment. No person, firm or corporation, other than a recognized and approved nursery or the personnel of the City shall be permitted to make nursery plantings in the cemetery.

Any nursery that refuses or fails to comply with the City's Rules and Regulations shall not be given the privilege to enter on the cemetery grounds for nursery purposes until compliance is effected. **(Ord. No. 10-21; 09-07-10)**

9-1-6 **DISINTERMENT.** All requests for disinterment of remains (including cremated remains) will be directed to a funeral home, which will facilitate the process. A permit, signed by all family members will be required. There will be no disinterments on weekends, holidays or during the winter months (October through May). The cost to disinter will be quoted at the time of request. The City, its officers or employees, will not be held responsible for any damages that may occur to a headstone, vault, casket or remains during a disinterment process. If it is deemed that a vault is unable to be removed, the site will be considered unsellable and maintained by the owners of the site.

CHAPTER 10 – CAPITAL DEVELOPMENT FUND

<u>ARTICLE</u>		<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GENERALLY</i>		
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	<i>Section 10-1-2</i>	- <i>Funding</i>	<i>10-1</i>
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CAPITAL DEVELOPMENT FUND 10-1-1

CHAPTER 10

CAPITAL DEVELOPMENT FUND

ARTICLE I – GENERALLY

10-1-1 **ESTABLISHMENT.** A fund is hereby established for the support of community economic development and related capital improvement projects. The fund shall be designated as the City Capital Development Fund. The fund shall be a part of the City's corporate fund.

10-1-2 **FUNDING.** The City Capital Development Fund shall be funded by the fee in lieu of taxes assessed against the City's electric utility and by any other method designated by the City.

10-1-3 **USES.** Monies expended from the City Capital Development Fund shall be used only for the following purposes:

- (A) Capital improvement (infrastructure related to economic development except for infrastructure improvements of any of the City utility funds), or
- (B) Economic development, or
- (C) Emergency transfer to the City electric fund.

10-1-4 **PROCEDURE FOR EXPENDITURES.** Before any expenditure can be made out of the City Capital Development Fund, a written application explaining the proposed use and amount of estimated expenditures shall be submitted to the City Council Finance Committee. The Finance Committee shall consider the application and make, to the City Council, its recommendation on the application.

10-1-5 **POLICY STATEMENT, FEE IN LIEU OF TAXES.**

(A) The municipally owned and operated electric system is a public utility and should be operated in a businesslike manner. The electric utility shall not be operated for the benefit of other municipal functions and shall not be used directly or indirectly as a general revenue-producing agency for the City, but it may pay to the City an amount in lieu of such taxes as are normally placed upon private business enterprises.

(B) The electric utility shall pay to the City Capital Development Fund a fee in lieu of taxes. Such fee shall be **three percent (3%)** of the gross operating revenues of the utility. Such fee shall be paid monthly when the gross operating revenues for the previous month have been calculated. The fee shall not be due or payable when either (1) the fund balance of the electric fund is less than or equal to **One Million Dollars (\$1,000,000.00)** or (2) the fund balance of the City Capital Development fund is equal to or greater than **Two Hundred Fifty Thousand Dollars (\$250,000.00)**. "Gross operating revenues" is defined as the retail sales of the fund and does not include penalties, service fees or tap fees. **(Ord. No. 07-07; 06-05-07)**

(Ord. No. 94-38A; 05-17-94)

CHAPTER 11 – ELECTRIC SYSTEM

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GENERALLY</i>	
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CHAPTER 11

ELECTRIC SYSTEM

ARTICLE I – GENERALLY

11-1-1 SERVICE CHARGES. There are hereby established rates and charges for the use and service of electric current for light and power based upon electricity consumed as recorded by electric meters based upon the type of premises served as follows:

(A) **Electricity Used For Residential Purposes.** (Available to single-family dwelling units for all domestic use.)

For the first 40 KWH used per month at	\$0.226825 per KWH
For the next 80 KWH used per month at	\$0.167632 per KWH
For all over 120 KWH used per month at	\$0.131260 per KWH

The minimum charge for electric service used for residential purposes shall be **Nine Dollars Seven Cents (\$9.07)** per month for the first **forty (40) KWH**.

(B) **Electricity Used For Commercial Purposes.** (Available to commercial and non-residential customers for lighting and all power purposes.)

For the first 100 KWH used per month at	\$0.266734 per KWH
For the next 150 KWH used per month at	\$0.205063 per KWH
For the next 250 KWH used per month at	\$0.175286 per KWH
For the next 500 KWH used per month at	\$0.158268 per KWH
For all over 1,000 KWH used per month at	\$0.125095 per KWH

The minimum charge for electricity used for commercial purposes shall be **Twenty-Six Dollars Sixty-Seven Cents (\$26.67)** per month for the first **one hundred (100) KWH**.

(C) **Rates and Charges for Electric System.** Except as established by a Council approved contract, there are established charges and rates for the use of and for the services supplied by the electric system of the City based on the amount of kilowatts consumed by the customer as shown by electric meters. Calculations of charges are made by rate tables.

Commencing with the first billing for each customer after **May 1, 2023** and on **May 1** every year thereafter, the rate tables will be reviewed and may be adjusted by the Mayor and City Council each year or at any time deemed necessary by them.

(D) **Utility Taxes.** Utility taxes are billed at a rate set by the State of Illinois; collected by the City on the billing and then are paid over to the State of Illinois monthly.

(E) **Power Cost Adjustment Charges.** These charges are billed to the City by their wholesale power providers based on consumption by the City each month. Such charges are then calculated and billed to each customer on the basis of the consumption of that individual customer.

(Ord. No. 20-05; 09-17-20)

11-1-2 BILLING AND PAYMENT OF CHARGES. Charges for electric services shall be made monthly. All bills for such service shall be rendered as of the **first (1st) day** of each month following the month for which service is rendered and electric meters read. All bills shall be payable by the **fifteenth (15th) day** of the month in which the bill is rendered. All bills not paid shall have a penalty of **five percent (5%)** added on the **sixteenth (16th) day** of said month. When the **fifteenth (15th) day** of any month shall be a Sunday or legal holiday, then such bills for service shall be paid on the next succeeding secular day without the penalty added.

In addition to all other charges, there shall be charged to the customer the sum of **Twenty-Five Dollars (\$25.00)** for each customer's check returned to the City for insufficient funds or other reason. Two or more such returned checks within a **six (6) month** period shall result in the requirement that all future payments to the City from that customer must be in form of either cash, money order or cashier check, unless otherwise authorized by the City Collector. All unpaid returned check charges shall be added to the customer's account and shall constitute a lien on the customer's property. **(Ord. No. 15-13; 10-06-15)**

11-1-3 DISCONNECTION OF SERVICE FOR NONPAYMENT OF BILLS. In the event charges for electric service are not paid on the **fifteenth (15th) day** of the month in which billed, a notice of disconnection shall be mailed to the customer by the City Collector on or after the **seventeenth (17th) day** of the month in which billed. Such disconnection notice shall advise the customer that service will be disconnected on or after the **fourth (4th) day** of the succeeding month, unless full payment of all delinquent charges for electricity and all penalties are paid in full to the City Collector before **8:00 A.M.** on the **fourth (4th) day** of the succeeding month.

In the event such delinquent charges are not paid in full to the City Collector by **8:00 A.M.** on the **fourth (4th) day** of the succeeding month, a delinquent fee of **Thirty-Five Dollars (\$35.00)** shall be charged to all accounts with a delinquent balance. Also, a City employee shall be sent to the premises to disconnect such delinquent user from the electric utility system without further notice.

Once disconnection has been made, no reconnection shall be made until all delinquent charges for electricity, and all penalties and delinquent fees have been paid in full to the City Collector, except, however, that if such services have been disconnected for a third time within a period of **one (1) year**, a delinquent fee of **Seventy-Five Dollars (\$75.00)** will be charged, and in addition, the delinquent fee within the succeeding year shall be **Seventy-Five Dollars (\$75.00)**.

Disconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Thursday, only between **8:00 A.M.** and **12:00 Noon** on Friday, and only between **8:00 A.M.** and **12:00 Noon** when the City offices will be closed the following day. These hours provide the customer the opportunity to make payment and have service reconnected.

Reconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Friday. Reconnections made after **3:00 P.M.** or on holidays or weekends will have an additional charge of **One Hundred Two Dollars Fifteen Cents (\$102.15)** to cover the overtime expense. (**Ord. No. 08-1; 02-05-08**)

11-1-4 SERVICE DEPOSITS FOR RESIDENTIAL AND COMMERCIAL CUSTOMERS, LANDLORDS OF UNOCCUPIED RENTAL PROPERTY, AND INDUSTRIAL CUSTOMERS.

(A) **Residential.** Any person, firm or corporation, whether as owner or as tenant, who applies after **February 5, 2008** for electric service, water and/or sewer service for residential purposes, shall pay to and maintain with the City Collector a service deposit as advance security for the payment of charges for service furnished. The deposit amount shall be **Three Hundred Fifty Dollars (\$350.00)** for a current City customer with a fair payment history or a new customer with a fair credit rating. Upon transfer of a deposit, the deposit amount shall be **Five Hundred Dollars (\$500.00)** for a current City customer with a poor payment record or a poor credit rating. The deposit amount shall be **Five Hundred Dollars (\$500.00)** for a new customer with a poor credit rating. After **one (1) full year** of service history without a disconnection notice **Two Hundred Dollars (\$200.00)** of the **Three Hundred Fifty Dollars (\$350.00)** or the **Five Hundred Dollar (\$500.00)** original deposit shall be credited to the property owner's current bill as a refund. To receive the **Two Hundred Dollars (\$200.00)** credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. After **two (2) full years** of service history without a disconnection notice **One Hundred Fifty Dollars (\$150.00)** of the original **Five Hundred Dollar (\$500.00)** deposit shall be credited to the property owner's current bill as a refund upon the owner's request to the City Collector. Upon termination of services, the remaining property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a residential customer's total deposit for electricity, water and/or sewer service shall not exceed **Five Hundred Dollars (\$500.00)**.

(B) **Commercial.** Any person, firm or corporation, whether as owner, or as tenant, who applies after **November 20, 2001** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for such electricity, water and sewer services, whichever is greater. The average commercial consumption and billing expected to be used shall be

determined by proper employees of the electric, water and sewer departments of the City. Such deposit is an advance security for the payment of charges for services furnished. After **one (1) full year** of service history without a disconnection notice any amount of the original owner's deposit exceeding the average monthly charge for electricity, water and sewer services shall be credited to the property owner's current bill as a refund. To receive credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. Upon termination of services, the remainder of the property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's original deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a commercial customer's total deposit for electricity, water and/or sewer service shall not exceed **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for electricity, water and sewer service, whichever is greater.

(C) **Landlords of Unoccupied Rental Property.** In lieu of a cash utility deposit of **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** an owner of an unoccupied rental property/unit, the utilities for which have been placed in owner's name, shall pay to and maintain with the City Collector a service deposit of **Fifty Dollars (\$50.00)**, **One Hundred Seventy-Five Dollars (\$175.00)** or **Three Hundred Fifty Dollars (\$350.00)**, the amount to be determined by the owner's current payment history or a current credit rating. The deposit for a good credit rating shall be **Fifty Dollars (\$50.00)**, a fair credit rating shall be **One Hundred Seventy-Five Dollars (\$175.00)** and a poor credit rating shall be **Three Hundred Fifty Dollars (\$350.00)**. Upon rental/occupancy of the property/unit a cash deposit shall be required in accordance with present Ordinance, irrespective of whether the utilities remain in the owner's name or are placed in the renter's name.

(D) **Industrial.** Any person, firm or corporation, whether as owner, or as tenant, who applies after **March 18, 2008** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)**. Such deposit is an advance security for the payment of charges for services furnished. Upon termination of service, the original deposit shall be applied to the final bill and the excess if any shall be refunded to the customer. To be eligible for the **Three Hundred Fifty Dollar (\$350.00)** Industrial Rate deposit, the customer must create **ten (10)** or more new jobs within the **first (1st) year** of their doing business in the City and retain those jobs or a minimum of **five (5) years**. The Industrial Rate deposit amount of **Three Hundred Fifty Dollars (\$350.00)** shall terminate automatically if the new employer (1) fails to create **ten (10)** or more full-time jobs in the City within the **first (1st) year** or (2) fails to retain those **ten (10)** or more jobs for a minimum of **five (5) years**, at which time the Commercial Deposit policy shall be enforced.

(Ord. 08-8; 03-18-08)

11-1-5 TAMPERING. It shall be unlawful for any person not authorized by the City to tamper with, alter, or injure any transmission conduits or appurtenances thereto utilized to provide electrical service to customers of the City of Newton's electrical distribution system, or to tamper with, alter or injure any meter utilized to record electricity consumed by a customer. Any person found to be in violation of this provision shall be subject to the penalties provided for in this Code (**See Section 1-1-20**) and shall be reported to the Jasper County State's Attorney for prosecution for tampering under the Illinois Criminal Code. Additionally, any service that has been tampered with shall be disconnected and removed without prior notice. Service shall not be reinstalled or activated until all damages to the City's equipment, all consumption charges, including those for estimated lost consumption, the required service deposit and the required reconnection charge have been paid in full.

11-1-6 EXCEPTIONS TO DISCONNECTION OF SERVICE.

(A) No electric service furnished to a residential customer by the City shall be terminated for nonpayment of bills on:

- (1) Any day when the national weather service forecast for the following **twenty-four (24) hours** covering the area in which the residence is

located includes a forecast that the temperature will be **twenty (20) degrees** Fahrenheit or below; or

- (2) Any day preceding a holiday or a weekend when such a forecast indicates that the temperature will be **twenty (20) degrees** Fahrenheit or below during the holiday or weekend.

(B) Anyone with a serious illness necessitating the need for continuation of electric service who is living full time at a residence scheduled for disconnection of service may contact a duly licensed physician. If the City Clerk receives, prior to disconnection of service, a written confirmation of the illness from a duly licensed physician, the electric service shall not be disconnected for a period of **thirty (30) days** from the day the written confirmation is received by the City Clerk if the customer complies with both of the following conditions, to-wit:

- (1) The duly licensed physician's statement must include the name, address and telephone number of the ill person; verification that the ill person is a full-time resident of the premises; the nature and duration of the illness verifying that termination of the electric service in question will create a life-threatening situation; and the business name and telephone number of the certifying physician.
- (2) The customer must make full payment of all delinquent electric service charges and all penalties within **thirty (30) days** after the City Clerk's receipt of the said physician's written confirmation otherwise, the electric service shall be disconnected on or after the **thirty-first (31st) day** after the Clerk's receipt of the said written physician's confirmation.
- (3) The City reserves the right to verify any and all information concerning a customer's illness.

(C) Any person receiving a disconnection notice who believes there has been an error in billing, malfunction of metering equipment or other just cause, may request a hearing before the City Council. A request for hearing by the customer must be submitted in writing to the City Clerk before disconnection has occurred. The hearing will take place within **fifteen (15) days** of the receipt of the customer's request for hearing. A decision will be rendered following the hearing. A decision will be rendered following the hearing. Until the hearing has been held and decision rendered, the customer's service will not be disconnected. Should the City Council's decision after the hearing be to disconnect the electric service, the customer will be so notified by written notice not less than **seven (7) days** prior to disconnection of service.

(Unless Otherwise Noted; Ord. No. 01-24; 11-20-01)

ARTICLE II – ECONOMIC INCENTIVES

11-2-1 INCENTIVE ESTABLISHED. The Mayor or other authorized office of the City is hereby authorized to negotiate with and offer to any individual, association, corporation or other legal entity proposing to come to the City and create **ten (10)** or more new jobs a **five (5) year** contract which contains the following terms:

(A) An employer creating **ten (10)** or more full-time jobs within the **first (1st) year** of their doing business in the City and retaining those jobs for a minimum of **five (5) years** will be eligible for electric rate discounts as follows:

(1) Years 1-5 – Industrial Rate which shall be a rate equal to the City's cost from the City's supplier of electricity.

Rates and Charges for Electric System, Utility Taxes and Power Cost Adjustment Charges apply as defined in the Newton City Code.

(2) Year 6 – Graduated Industrial Rate as defined in the following billing rate table:

For the first 100 KWH used per month at	\$0.182918
For the next 150 KWH used per month at	\$0.152080
For the next 250 KWH used per month at	\$0.137192
For the next 500 KWH used per month at	\$0.128684
For all over 1000 KWH used per month at	\$0.112095

The minimum charge for electricity used for commercial purposes shall be **Eighteen Dollars Twenty-Nine Cents (\$18.29)** per month for the first **one hundred (100) KWH**.

Rates and Charges for Electric System, Utility Taxes and Power Cost Adjustment Charges apply as defined in the Newton City Code.

(3) Year 7 – Commercial Rate as defined in the City Code.

(B) The foregoing rates would not change during the term of the contract unless the City's cost from its wholesale power provider changes then any increases would be passed on to the customer.

(C) The foregoing discounted rates shall terminate automatically if the new employer (1) fails to create **ten (10)** or more full-time jobs in the City within the **first (1st) year**; (2) fails to retain those **ten (10)** or more jobs for a minimum of **five (5) years** or (3) fails to meet any other of its obligations to the City. In the event of said termination, the new employer must agree to reimburse the City the difference between the discounted electric rate and the normal electric rate that would have been charged to the new employer, said difference to be paid to the City within **sixty (60) days** from the date of said termination.

(Ord. No. 05-28; 10-04-05)

ARTICLE III - NET METERING POLICY

11-3-1 **NET METERING POLICY.** The City hereby adopts the new Net Metering Policy set forth in Exhibit A attached hereto, the new Terms and Conditions for Interconnection set forth in Exhibit B attached hereto, the new sample One-Line Interconnection Diagram set forth in Exhibit C attached hereto, the new Standard Distributed Generation Interconnection Request Application Form set forth in Exhibit D attached hereto, the new Standard Distributed Generation Interconnection Request Application Form set forth in Exhibit E attached hereto, and the new Certificate of Completion set forth in Exhibit F attached hereto, all of which are incorporated herein by this reference.

The effective date of the new Net Metering Policy and affiliated exhibits above described shall be May 3, 2022. Any electric generating facility operating within the City before the effective date of this Article, shall be grandfathered in and shall be governed by the old Net Metering Policy until the facility ceases to operate or there is a transfer of ownership, at which time the generating facility shall be governed by this new Article.

(Ord. No. 22-09; 05-03-22)

EXHIBIT A

CITY OF NEWTON NET METERING POLICY

EFFECTIVE DATE: NOVEMBER 19, 2019

Section 1: The City of Newton ("City") shall make available, upon request, net metering service to any customer taking service from the City and who meets the requirements set forth in this policy. For purposes of this policy "net metering" means service to an electric customer under which electric energy generated by that electric customer from an eligible on-site generating facility owned by that customer and, under some circumstances, delivered to the local distribution facilities, may be used to offset electric energy provided by the electric utility to the electric customer as provided for in this policy. The term "net metering" is not used as a limiting term, but rather is used in its general sense to include the full range of methods for valuing customer self-generation and implementing fair credits for excess energy delivered to the municipal distribution system by the customer. For multi-unit residential and commercial buildings, if all units are on the same account it qualifies as a single customer for purposes of this policy. If individual units are separately metered and individual tenants have individual accounts, then the term "customer" only refers to the building owner and any usage by the owner. The City cannot be responsible to allocate renewable generation facilities to individual accounts in a multi-unit residential or commercial building. Before the project starts construction, customer must complete the attached application form and receive approval from the Newton Electric Department. Before the project in service date, the contractor must complete and deliver the attached Certification of Completion to the Newton City Hall.

Section 2: For purposes of this policy an eligible on-site generating facility shall be defined as a renewable generating facility, such as a photovoltaic facility and small wind turbines, and may include technology to store renewable energy at the customer's premises. Other forms of renewable generation shall be considered on a case-by-case basis. In all cases, facilities interconnected must be deemed by the City to be renewable to qualify for this policy.

Section 3: The electric generating facility must also abide by the City Interconnection Standards currently in place at the time of installation to be an eligible one-site generating facility.

Section 4: Subject to the limitations set forth herein, the City shall make net metering service available upon request to any City residential or small commercial electric customer with an eligible on-site generating facility owned by the customer. The determination whether a customer is a residential or small commercial customer is based on the rate classification under which the customer takes electric service. Small commercial customers are further defined as those with single phase service. The eligible on-site generating facility shall be located on the customer's premises and on the customer's side of the billing meter and be sized to primarily produce only enough electricity to offset the customer's own electrical requirements. Proper sizing of eligible on-site generating facilities shall be determined as set forth in Section 13 below.

Section 5: Any request for net metering service by a customer that is not a residential or small commercial customer shall be considered on a case-by-case basis. The decision with respect to such facilities shall be made by the City Electric Department based on potential impacts to the distribution system or portions thereof and to the property of other customers of the City. Customers that do not qualify for net metering service under this Policy shall be permitted to interconnect and self-generate as required by and in accordance with the Federal Energy Regulatory Commission's rules under the Public Utility Regulatory Policies Act (PURPA) on a case-by-case basis.

Section 6: Notwithstanding the provisions in Section 4, the City reserves the authority to withhold, deny or delay approval of the interconnection of proposed on-site generating facilities and of net metering service hereunder if the operation of the facility would be unsafe or pose a risk of adverse impacts to the distribution system or portions thereof or to the property of other customers of the City. The City shall withhold approval for only so long as is reasonably necessary to remedy the risk of adverse impact. The City shall only deny

approval if the adverse impact cannot reasonably be remedied or if the customer refuses to meet all applicable State and local safety and electrical code requirements or refuses to provide for payment of the costs of the improvements to the facility or the system that are required to accommodate the otherwise eligible on-site generating facility. The City shall not be required to make unscheduled improvements to its distribution system or portions thereof to remedy the situation causing the delayed or withheld approval unless the customer agrees to pay for the reasonable costs thereof. Likewise, the City may require a customer with an approved on-site generating facility that has been installed and begun to operate to suspend operations of the facility if it becomes unsafe or causes adverse impacts to the distribution system or portions thereof or to the property of other customers of the City, and such suspension shall be in place only so long as is reasonably necessary to remedy the adverse impact. The City may require the customer to disconnect the on-site generating facility from the distribution system in serious situations.

Section 7: [This Section left blank intentionally.]

Section 8:

- A. Energy generated by the customer-owned generator during the billing period may supply all or a portion of the energy required by the customer's load. The customer shall be credited for excess energy delivered by the customer to the City at the meter from the approved on-site generating facility.
- B. For eligible on-site generating facilities that were approved and in service on or prior to the effective date of the 2022 revisions to this Policy, the following credit method shall be used to determine excess energy credit until April 30, 2032: For energy delivered by the utility to the customer at the meter, as reflected in the meter reading, shall be billed at the appropriate utility full retail energy rate. For any excess energy generated by the customer from an approved on-site generating facility and delivered by the customer to the utility at the meter, as reflected in the meter reading, a credit shall be created and applied to the customer's bill based on the avoided cost of energy. Avoided cost shall be determined as set forth in Section 12 below. The City shall install an appropriate meter to measure both the energy delivered by the utility to the customer at the meter and the energy delivered by the customer to the utility at the meter from the approved on-site generating facility.
For all other eligible on-site generating facilities, and after April 30, 2032 the above-referenced customers, the following credit method shall be used to determine excess energy credit: For energy delivered by the utility to the customer at the meter, as reflected in the meter reading, shall be billed at the appropriate utility full retail energy rate. For any excess energy generated by the customer from an approved on-site generating facility and delivered by the customer to the utility at the meter, as reflected in the meter reading, a credit shall be created and applied to the customer's bill based upon the avoided cost of energy. Avoided cost shall be determined as set forth in Section 12 below. The City shall install an appropriate meter to measure both the energy delivered by the utility to the customer at the meter and the energy delivered by the customer to the utility at the meter from the approved on-site generating facility.
- C. Credits from electric energy delivered to the municipal distribution system by the customer shall be used to offset usage based electric energy (kWh) charges only. No such credits shall be applied to, and the customer shall remain responsible for, (i) taxes, fees, and other charges that would otherwise be applicable to the net amount of electric energy (kWh) purchased by the customer from the City or consumed by the customer, and (ii) other charges to the customer under any other rules, regulations or rates that are not based on per kilowatt-hour (kWh) charges, including but not limited to, basic service charges, customer service charges, facilities charges, demand charges, kVAR charges, transformation charges, taxes and assessments billed on other than kWh basis, rental fees, and late fees.
- D. The City shall carry over any unused credits earned and apply those credits to subsequent billing periods to offset usage based electric energy (kWh) charges only for electric energy supplied to the customer by the City until all credits are used or until the end of the annual period. The annual period shall end each year on the last day of February; provided however for new net metering customers with generating facilities installed during an annual period, the annual period shall end of February 28 of the following year. At the end of the annual period or in the event that the customer terminates service at the service location with the City prior to the end of annual period, any remaining credits in the customer's account shall expire and no credit or payment shall be due to the customer for such expired credits. In the event of termination of an account qualifying for net metering under this policy, any outstanding credits are surrendered. No credit or payment shall be due to the customer for such surrendered credits. Under no circumstance will credits for excess energy transfer to a new customer at the service location after the customer's service with the City terminates.

Section 9: Any costs the City incurs associated with the interconnection of generating facilities by a customer, including but not limited to changes in metering (to include installation of a bi-directional meter), or other physical facilities, whether on the customer's premises or a reasonably necessary upgrade to the municipal distribution system or a portion thereof that is not on the customer's premises, shall be borne by the customer seeking to install or for whom the generating facility was installed; provided however that such costs shall be capped at \$1,500 to each qualifying customer interconnecting facilities of 10 kW or less. For those facilities greater than 10 kW that are deemed to qualify under this policy, all costs associated with the interconnection of the generating facility shall be borne by the customer seeking to install or for whom the generating facility was installed. Costs assessed under this Section shall be demonstrable and cost based. Such costs shall not include or be based on reduced sales by or lost revenues to the City associated with net metering service.

Section 10: [This Section left blank intentionally.]

Section 11: The City shall develop such documents as needed to implement this policy and any customer applying for or taking service hereunder shall execute all appropriate documents. See Interconnection Agreement Exhibit B – F.

Section 12: The utility shall install a bi-directional meter to measure both the energy used by the customer from the utility and the energy provided by the customer to the utility. Energy generated by the customer-owned generator will offset the energy required by the customer's load during the billing period. Energy used by the customer from the utility, as reflected in the meter reading, shall be billed at the appropriate utility full retail rate. For any energy generated by the customer and provided to the utility for a given billing period, as reflected in the meter reading, a credit shall be applied to the customer's bill based upon the utility's cost. Avoided cost shall be defined as the average cost in cents/kWh billed to the utility by its power supplier for the previous month.

Section 13: The maximum size in kilowatts_{AC} of the eligible on-site generating facility for an individual customer service location in the rate categories identified in Section 4 shall be determined as follows:

The installation of a renewable generating facility under this Policy is intended to supply all or a portion of the customer's own usage of electricity. Therefore, in order to be approved, a renewable generating facility must be properly sized so as to meet a residential customer's peak demand of electricity or 10 kW, whichever is greater, or the small commercial customer's peak demand of electricity or 25kW, whichever is greater. It is also important to the customer that the generating facilities are properly sized because the credits under this Policy for excess energy delivered to the distribution system expire if not used within the time period established in this Policy. As part of the interconnection application, customer's energy usage will be analyzed using 36-months of historical energy usage (if available) in order to calculate the customer's expected peak demand. If a customer provides documentation specifying why the usage has increased over that time, such as home renovation/addition or installation of electric heating or an electric vehicle charging station on the premises, then the previous 12-month period shall be used to determine the average for the expected peak demand. If the applicable months of data are not available for an individual customer, the average usage amounts by other similar customers of the City, as determined by the City Electric Department, shall be used to set the expected peak demand. If facilities are allowed for customers in other rate classes, the rightsizing shall be determined on a case by case basis.

In addition to the foregoing historic usage, the City shall consider potential adverse impacts to the distribution system and to other customers of the City that will be caused by or expected to be caused by the installation of the new renewable generating facility at the particular customer service location as part of the interconnection application review. The maximum size of the eligible on-site generating facility for an individual customer service location shall be reduced below the expected peak demand of the customer to mitigate the potential adverse impacts to the distribution system or portions thereof and to the other customers of the City unless the customer pays for any necessary upgrade to the system or portion thereof to avoid the potential adverse impact.

Section 14: Any customer with an approved on-site generating facility that was approved and in service on or prior to the effective date of the 2022 revisions to the Policy may elect to be treated as if it were placed in service after the effective date of the 2022 revisions to this Policy for purposes of the legacy netting and

crediting provisions in Sections 8 and 12. There is a limited one-time option to make such election. The customer shall make any such election within 60 days of the effective date of the 2022 revisions to this Policy.

Section 15: The City reserve the right to interpret, amend or rescind this policy. Nothing herein is intended to nor shall it create a right for a customer to rely on any particular netting or crediting methodology contained in the policy from time to time, and all rates for excess credits are subject to change in accordance with the laws of the State of Illinois governing municipalities.

Section 16: Citizen and customer concerns generally with this Net Metering Policy may be raised in the public comment portion of any open meeting of the governing body of the City at any time and will be considered by the governing body in accordance with its normal processes. Individual customer complaints, disputes or concerns shall be raised in the first instance with the City Electric Department Head. If the matter cannot be resolved at the utility staff level, this issue shall be reduced to writing and forwarded to the City Electric Department chairman who shall schedule a meeting in person or by telephone or other communications media (i.e., Zoom call) with the customer. The customer may invite its contractor or other consultant to participate in the meeting. If the matter cannot be resolved at this stage, the process will escalate to the Mayor and City Council. If this process fails to resolve the matter, the customer may appeal it to the circuit court and exercise whatever rights and remedies the customer may have in law or equity. This policy shall be posted on the City's website along with appropriate contact information.

EXHIBIT "B"

**Customer-Owned Generating
FACILITIES INTERCONNECTION AGREEMENT**

This Agreement ("**Agreement**") is entered into by and between the City of Newton, ("**Utility**") and _____ ("**Customer**"). Customer and Utility are referenced in this Agreement collectively as "**Parties**" and individually as "**Party**".

Recitals

WHEREAS, Utility is a municipality-owned electric utility engaged in the retail sale of electricity in the State of Illinois.

WHEREAS, interconnection Customer is proposing to install, own, and operate an electric generating facility, or is proposing a generating capacity addition to an existing generating facility that qualifies under the Utility's Customer Self-Generation Interconnection Policy (adopted May 3, 2022) consistent with the interconnection agreement completed by interconnection Customer on _____.

Agreement

NOW, THEREFORE, in consideration of the covenants and promises herein, the parties mutually agree as follows:

Article I – Scope and Limitation of Agreement

- 1.1 **Scope of Agreement.** This Agreement governs the terms and conditions under which the Customer's generating facility will interconnect with, and operate in parallel with, the distribution system. Terms used in this Agreement and not otherwise defined shall have the respective meaning given to them in the Utility's Customer Self-Generation Interconnection Policy.
- 1.2 **Eligibility.** Interconnection to the electric system shall be granted only to new or existing Customers in good standing under the Utility's terms, conditions, rules, regulations and provisions for electric service. The Interconnection Agreement shall be between the Customer who owns the generating facility and the Utility.
- 1.3 **Request.** A Customer desiring to interconnect a qualifying generating facility must complete and return to the Utility an Interconnection Request Application Form with payment of the applicable processing fee. The processing fee for systems sized 25 kW_{AC} and under is \$100. The processing fee for systems sized greater than 25 kW_{AC} is \$200. The Utility may require additional details or clarifications as needed to properly evaluate the application.
- 1.4 **System Effects.** The Utility will analyze the overall impact of the proposed generating facility on the distribution system. Such analyses will be based on Good Utility Practice to determine thermal effects, voltage fluctuations, power quality, system stability, and other parameters.
- 1.5 **System Upgrades.** As a result of the analysis described in Section 1.4, the Utility will provide the Customer with a cost estimate and projected timeframe for any distribution system upgrades that may be necessary to accommodate the generating facility.
- 1.6 **Metering.** The interconnection Customer shall be responsible for the cost to purchase and install appropriate metering. Exhibit C illustrates the sample of interconnection and metering requirement, ownership and responsibilities of the Parties.
- 1.7 **Codes and Permits.**
 - A. The interconnection Customer shall be responsible for procuring all building, operating, and environmental permits that are required by any governmental authority having jurisdiction for the type of generating facility and for the necessary ancillary structures to be installed, if any.
 - B. The equipment shall meet the standards listed in Section 2.7.
 - C. The construction and facilities shall meet all applicable building and electrical codes.

Article II – Technical Requirements

- 2.1 **Character of Service.** The electrical service shall be 60 cycles per second (60 Hertz) alternating current (AC) at supply voltages and number of phases that apply under the Utility's terms, conditions, rules, regulations and provisions for electric service, including metering requirements.
- 2.2 **Code Requirements.** Once the generating facility has been authorized to commence parallel operation, the interconnection Customer shall abide by all operating procedures established by the National Electrical Code (NEC), National Electrical Safety Code (NESC), Institute of Electrical and Electronics Engineers (IEEE), Underwriters Laboratories (UL), and Occupational Safety and Health Administration. Specific codes are listed in Section 2.7 below as "National Certification Codes and Standards." In addition, Manufacturer's Ownership, Operating and Maintenance Manuals shall be reviewed and accepted by both parties prior to beginning operation.
- 2.3 **Generating Facility Control and Operation.** The control system of the generating facility shall comply with the IEEE specifications standards for parallel operation with the Utility and in particular as follows:
- A. Power output control system shall automatically disconnect from distribution system upon loss of Utility voltage and not reconnect until Utility voltage has been restored and stabilized by the Utility.
 - B. Power output control system shall ride through voltage fluctuations but shall automatically disconnect from distribution system if Utility or Customer-owned generation voltage fluctuates beyond plus or minus 10% (ten percent). The interconnection Customer shall provide adequate protection to prevent damage to the distribution system from inadvertent over/under voltage conditions originating in Customer's generating facility and to protect the Customer's generating facility from inadvertent over/under voltage conditions originating from the distribution system.
 - C. Power output control system shall ride through frequency fluctuations but shall automatically disconnect from Utility if frequency fluctuates beyond plus or minus 2 cycles per second from 60 cycles per second (Hertz).
 - D. Inverter output distortion shall meet IEEE requirements.
 - E. the generating facility shall meet the applicable IEEE standards concerning impacts to the distribution system with regard to harmonic distortion, voltage flicker, power factor, direct current injection and electromagnetic interference.
 - F. The voltage produced by the Customer's generating facility must be balanced if it is a three-phase installation. The interconnection Customer is responsible for protecting the generating facility from an inadvertent phase imbalance in the Utility's service voltage.
- 2.4 **Fault Current Contribution.** The generating facility shall be equipped with protective equipment designed to automatically disconnect during fault current conditions and remain disconnected until the voltage and frequency have stabilized.
- 2.5 **Reclosing Coordination.** The generating facility shall be coordinated with the distribution system reclosing devices by disconnecting from the system during the initial de-energized operation and shall remain disconnected until the voltage and frequency have stabilized.
- 2.6 **Disconnect Device.** A safety manual disconnect switch of the visible load break type shall be installed by the customer. The disconnect switch shall be visible to and readily accessible by Utility personnel. The switch shall be capable of being locked in the open position and shall prevent the generator from supplying power to the distribution system.
- 2.7 **Standards for Interconnection, Safety, and Operating Reliability.** The interconnection of a generating facility and associated interconnection equipment to the Utility's distribution system shall meet the applicable provisions of the following publications:
- A. ANSI/IEEE1547-2018 Standard for Interconnecting Distributed Resources with Electric Power Systems (including use of IEE 1547.1-2020 testing protocols to establish conformity) as they may be amended from time to time. The following standards shall be used as guidance in applying IEEE 1547;
 - B. IEEE Std 519-2014, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems;

- C. IEEE 1453, IEEE Recommended Practice for the Analysis of Fluctuating Installation on Power Systems;
- D. UL1741 requirement for inverter-based generation;
- E. NESC Electric Safety Code;
- F. ANSI/NFPA 70, National Electrical Code;
- G. OSHA (29 CFR § 1910.269)

Article III – Inspection, Testing, Authorization, and Right to Access

3.1 Equipment Testing and Inspection.

- A. Upon completing construction, the interconnection Customer shall test and inspect its generating facility including the interconnection equipment prior to interconnection in accordance with updated IEEE standards 1547 and IEEE standard 1547.1 by the City Electric Department. The interconnection Customer shall not operate its generating facility in parallel with distribution system without prior written authorization by the Utility.
- B. All interconnection related protective functions and associated direct current supplies shall be tested prior to commencement of commercial service, and (if nameplate rating of Customer's generating facilities is greater than 25 kW_{AC}) periodically tested thereafter no less than every three (3) years.

3.2 Certification of Completion.

The interconnection Customer shall provide the Utility with a copy of the Certificate of Completion with all relevant and necessary information fully completed by the interconnection Customer, as well as an inspection form from the City Electric Department demonstrating that the generating facility passed inspection.

3.3 Witness Test.

- A. The Utility shall perform a witness test after construction of the generating facility is completed but before parallel operation, unless the Utility specifically waives the witness test. The interconnection Customer shall provide the Utility at least 30 business days' notice of the planned commissioning test for the generating facility. If the Utility performs a witness test at a time that is not concurrent with the commissioning test, it shall contact the interconnection Customer to schedule the witness test at a mutually agreeable time within 10 business days after the commissioning test, the witness test is deemed waived unless the parties mutually agree to extend the date for scheduling the witness test, or unless the Utility cannot do so for good cause, in which case, the parties shall agree to another date for scheduling the test within 10 business days of the original scheduled date. For systems sized less than 25 kW_{AC} the 30 business days' notice shall be waived.
- B. If the witness test is not acceptable to the Utility, the interconnection Customer has 30 business days to address and resolve any deficiencies. This time period may be extended upon agreement between the Utility and interconnection Customer. If the interconnection Customer fails to address and resolve the deficiencies to the satisfaction of the Utility, this Agreement shall be terminated. The interconnection Customer shall, if requested by the Utility, provide a copy of all documentation in its possession regarding testing conducted pursuant to IEEE standard 1547.1.
- C. After the generating facility passes the witness testing, the Utility shall affix an authorized signature to the Certificate of Completion and return it to the interconnection Customer approving the interconnection and authorization parallel operation.

3.4 Right of Access.

The Utility must have access to the disconnect switch and metering equipment of the generating facility at all times without notice. When practical, the Utility shall provide notice to the Customer prior to using its right of access.

Article IV – Effective Date, Term, Termination, and Disconnection

4.1 Effective Date.

This Agreement shall become effective upon execution by all parties.

- 4.2 **Term of Agreement.** This Agreement shall become effective on the effective date and shall remain in effect unless terminated earlier in accordance with Article 4.4 of this Agreement.
- 4.3 **Governing Law, Regulatory Authority, and Rules.** The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the Codes and Regulations of the City as well as the laws of the State of Illinois without regard to its choice of law principals. Nothing in this Agreement is intended to affect any other agreement between the Utility and the interconnection Customer.
- 4.4 **Termination.** This Agreement may be terminated under the following conditions:
- A. By Interconnection Customer - the interconnection Customer may terminate this Agreement by providing written notice to the Utility. If the interconnection Customer ceases operation of the generating facility, the interconnection Customer must notify the Utility.
 - B. By the Utility - The Utility may terminate this Agreement if the interconnection Customer fails to remedy a violation of terms of this Agreement within 30 calendar days after notice, or such other date as may be mutually agreed to prior to the expiration of the 30-calendar day remedy period. The termination date may be no less than 30 calendar days after the interconnection Customer receives notice of its violation from the Utility.
 - C. Upon termination of this Agreement, the generating facility will be permanently disconnected from this distribution system. Terminating this Agreement does not relieve either party of its liabilities and obligations that are owed or continuing when the Agreement is terminated.
 - D. Upon termination of this Agreement, the Utility shall open and padlock the manual disconnect switch on Customer's premises.
- 4.5 **Disconnection.** The Utility may temporarily disconnect the generating facility upon any of the following conditions, but must reconnect the generating facility once the condition is cured:
- A. For scheduled outages, provided that the generating facility is treated in the same manner as Utility's load Customers;
 - B. For unscheduled outages or emergency conditions;
 - C. If the generating facility does not operate in the manner consistent with this Agreement;
 - D. Improper installation or failure to pass the witness test;
 - E. If the generating facility is creating a safety, reliability or a power quality problem; or
 - F. The interconnection equipment used by the generating facility is delisted by the nationally recognized testing Laboratory that provided the listing at the time the interconnection was approved.
 - G. Failure of the customer to obtain or maintain the insurance coverage set forth in Article 7 of this Agreement.
- 4.6 **Modification of Generating Facility.** The interconnection Customer must receive written authorization from the Utility before making any changes to the generating facility that could affect the distribution system. If the interconnection Customer makes such modifications without the Utility's prior written authorization, the Utility shall have the right to disconnect the generating facility immediately.
- 4.7 **Permanent Disconnection.** In the event the Agreement is terminated, the Utility shall have the right to disconnect its distribution system or direct the interconnection Customer to disconnect its generating facility.
- 4.8 **Lost Opportunity.** The Utility is not responsible for any lost opportunity or other costs incurred by the interconnection Customer as a result of an interruption of service under this Article 4.

Article V – Cost Responsibility for Interconnection Facilities and Distribution Upgrades

- 5.1 **Interconnection Facilities.**
- A. The interconnection Customer is responsible for the cost of additional interconnection facilities necessary to interconnect the generating facility with the distribution system.
 - B. The interconnection Customer is responsible for its expenses, including overheads, associated with owning, operation, maintaining, repairing, and replacing its interconnection equipment.

- C. **Distribution System Upgrades.** The Utility shall design, procure, construct, install, and own any distribution system upgrades. The cost of the distribution system upgrades shall be directly assigned to the interconnection Customer whose generating facility caused the need for the distribution system upgrades.
- 5.2 **Cost for Small Systems.** For qualifying systems sized 10 kW_{AC} or less the cost in Section 5.1 shall be capped at \$1500.

Article VI – Assignment, Limitation on Damages, Indemnity, Force Majeure

- 6.1 **Assignment/Transfer of Ownership of the Generating Facility.** This Agreement shall terminate upon the transfer of ownership of the generating facility to a new owner unless the transferring owner assigns the Agreement to the new owner, the new owner agrees in writing to the terms of this Agreement, and the transferring owner so notifies the Utility in writing prior to the transfer of ownership.
- 6.2 **Limitation of Liability.** Each party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, incidental, special, consequential, or punitive damages of any kind whatsoever.
- 6.3 **Indemnification.** The interconnection Customer shall indemnify and defend the City, Utility, and the elected officials, directors, officers, employees, and agents from all damages and expenses resulting from any third party claim arising out of or based upon the interconnection Customer's (a) negligence or willful misconduct; (b) breach of this Agreement; or (c) the operation of the Customer's generating facility, regardless of Customer's negligence or willful misconduct, except when and to the extent the loss occurs due to the grossly negligent actions of the Utility. The Utility shall indemnify and defend the interconnection Customer and the interconnection Customer's directors, officers, employees, and agents from all damages and expenses resulting from a third-party claim arising out of or based upon the Utility's (a) negligence or willful misconduct or (b) breach of this Agreement.
- 6.4 **Force Majeure.** If a force majeure event prevents a Party from fulfilling any obligations under this Agreement, the party affected by the force majeure event (Affected Party) shall notify the other Party of the existence of the force majeure event within one business day. The notification must specify the circumstances of the force majeure event, the expected duration, and the steps that the Affected Party is taking and will take to mitigate the effects of the event on its performance. If the initial notification is verbal, it must be followed up with a written notification within one business day. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the force majeure event until the event ends. The Affected Party may suspend or modify its obligations under this Agreement. The term "force majeure" shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, epidemic, pandemic, breakage or accident to machinery or equipment, an order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's reasonable control. A Force Majeure event does not include an act of negligence or intentional wrongdoing by the party claiming Force Majeure.

Article VII – Insurance

- 7.1 **Insurance.** The interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner's insurance or commercial building insurance. The interconnection Customer shall provide the Utility with proof that it has a current homeowner's insurance or commercial building insurance policy, or other general liability policy. The interconnection Customer shall name the Utility as an additional insured on its homeowner's insurance or commercial building insurance policy, or similar policy covering general liability and shall cause the insurance company to issue a Certificate of Insurance to the Utility. The

interconnection customer shall notify the Utility immediately if such insurance policy is terminated or cancelled prior to the end of its term and if the insurance company has communicated an intent not to renew the policy.

Article VIII – Documents and Notices

- 8.1 **Documents.** The Agreement includes the following documents, which are attached and incorporated by reference:
 - A. One-line drawing
 - B. Interconnection Request Application Form
 - C. System Upgrade Estimated Costs
 - D. Certificate of Completion

8.2 **Notice.** The Parties may mutually agree to provide notices, demands, comments, or requests by electronic means such as e-mail. Absent Agreement to electronic communication, or unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to Interconnection Customer:

Use the contact information provided in the interconnection Customer’s application. The interconnection customer is responsible for notifying the Utility of any change in the contact party information, including change of ownership.

If to Utility:

Use the contact information provided below. The Utility is responsible for notifying the interconnection Customer of any change in the contact party information.

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening) _____

Fax Number: _____ Email Address: _____

Article IX – Signatures

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

EXHIBIT "C"

Sample One-line Interconnection Diagram

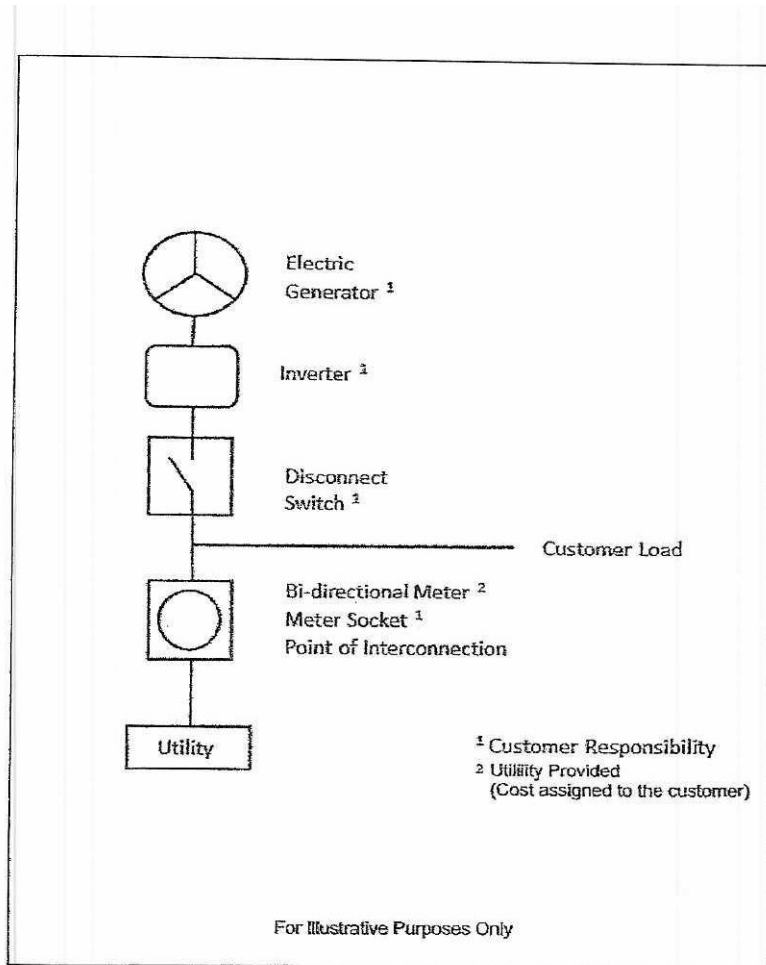


EXHIBIT "D"

**City of Newton Standard Distributed Generation
Interconnection Request Application Form
(Lab-Certified) Inverter-Based Distributed Generation Facilities 25 kW and Smaller**

Interconnection Applicant Contact Information

Customer Name: _____

Primary Contact: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

Additional Contact Information (if different from primary contact)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

Equipment Contractor

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

Electrical Contractor (if different from Equipment Contractor)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

Contractor License Number: _____

Active License? Yes No

Registered with Municipality? Yes No

Is the Interconnection Customer requesting Net Metering? Yes No

Distributed Generation Facility (“Facility”) Information

Facility Address: _____

City: _____ State: _____ Zip Code: _____

City of Newton serving Facility site: _____

Account Number of Facility site: _____

Inverter Manufacturer: _____ Model: _____

Is the inverter lab-certified as that term is defined in the Illinois Distributed Generation Interconnection Standard? Yes No

(If yes, attach manufacturer’s technical specifications and label information from a nationally recognized testing laboratory.)

Generation Facility Nameplate Rating: __ (kW) _____ (kVA) _____ (AC Volts)

Prime Mover: Photovoltaic Turbine

Energy Source: Solar Wind

In-Service Date: _____

(If the In-Service Date changes, the interconnection customer must inform the utility as soon as it is aware of the changed date.)

Insurance Disclosure

The attached terms and conditions contain provisions related to liability and indemnification and should be carefully considered by the interconnection customer. The interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner’s insurance. Whenever possible, the interconnection customer shall name the City as an additional insured on its homeowner’s insurance policy, or similar policy covering general liability.

Customer Signature

I hereby certify that: (1) I have read and understand the terms and conditions which are attached hereto by reference; (2) I hereby agree to comply with the attached terms and conditions; and (3) to the best of my knowledge, all of the information provided in this application request form is complete and true.

Applicant Signature: _____ Date: _____

Name: _____ Title: _____

Conditional Agreement to Interconnect Distributed Generation Facility

By its signature below, the (utility) has determined the interconnection request is complete. Interconnection of the distributed generation facility is conditionally approved contingent upon the attached terms and conditions of this Agreement, the return of the attached Certificate of Completion, duly executed verification of electrical inspection and successful witness test.

Utility Representative Signature: _____ Date: _____

Name: _____ Title: _____

EXHIBIT "E"

**City of Newton Standard Distributed Generation
Interconnection Request Application Form (Lab-Certified)
Inverter-Based Distributed Generation Facilities (Greater than 25 kW – 1MW)**

Interconnection Applicant Contact Information

Customer Name: _____

Primary Contact: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

Alternative Contact Information (if different from Primary Contact Information)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

Facility Address (if different from above): _____

City: _____ State: _____ Zip Code: _____

City of Newton serving Facility site: _____

Account Number of Facility site (existing utility customers): _____

Inverter Manufacturer: _____ Model: _____

Equipment Contractor

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

Electrical Contractor (if different from Equipment Contractor)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone (Daytime): _____ (Evening): _____

Fax Number: _____ Email Address: _____

License Number: _____

Electric Service Information for Customer Facility Where Generator Will Be Interconnected

Capacity: _____ (Amps) Voltage: _____ (Volts)

Type of Service: Single Phase Three Phase

If 3 Phase Transformer, Indicate Type:

Primary Winding Wye Delta

Secondary Winding Wye Delta

Transformer Size: _____ Impedance: _____

Intent of Generation

Offset Load (Unit will operate in parallel, but will not export power to utility)

Net Meter (Unit will operate in parallel and will occasionally export power into the distribution system)

Generator & Prime Mover Information

ENERGY SOURCE (Wind and Solar): _____		
ENERGY CONVERTER TYPE (Wind Turbine, Photovoltaic Cell): _____		
GENERATOR SIZE: kW or kVA	NUMBER OF UNITS:	TOTAL CAPACITY: kW or kVA
GENERATOR TYPE (Check one):		
Induction Inverter	Synchronous	Other

Distributed Generation Facility Information

In-Service Date: _____

List interconnection components/systems to be used in the distributed generation facility that are lab-certified.

Component/System NRTL Providing Label & Listing

1. _____
2. _____
3. _____
4. _____
5. _____

Please provide copies of manufacturer brochures or technical specifications.

Energy Production Equipment/Inverter Information:

Synchronous Induction Inverter _____ Other _____

Rating: _____ kW Rating: _____ kVA

Rated Voltage: _____ Volts

Rated Current: _____ Amps

System Type Tested (Total System):

Yes No attach product literature

Additional Information for Inverter-Based Facilities

Inverter Information:

Manufacturer: _____ Model: _____

Type: Forced Commutated Line Commutated

Rated Output: _____ Watts _____ Volts

Efficiency: _____ % Power Factor: _____ %

Inverter UL 1741 Listed: Yes No

DC Source/Prime Mover

Rating: _____ kW Rating: _____ kVA

Rated Voltage: _____ Volts

Open Circuit Voltage (if applicable): _____ Volts

Rated Current: _____ Amps

Short Circuit Current (if applicable): _____ Amps

Other Facility Information

One Line Diagram attached: Yes

Plot Plan attached: Yes

Insurance Disclosure

The attached terms and conditions contain provisions related to liability and indemnification, and should be carefully considered by the interconnection customer. The interconnection customer shall carry general liability insurance coverage, such as, but not limited to, homeowner's insurance. Whenever possible, the interconnection customer shall name the City as an additional insured on its homeowner's insurance policy, or similar policy covering general liability.

Customer Signature

I hereby certify that all of the information provided in this Interconnection Request Application Form is true.

Applicant Signature: _____

Printed Name: _____ Title: _____

Title: _____ Date: _____

Utility Acknowledgement

Receipt of the application fee is acknowledged and this interconnection request is complete.

Utility Signature: _____ Date: _____

Printed Name: _____ Title: _____

EXHIBIT "F"

Certificate of Completion

To be completed and returned to City Hall when installation is complete and final electric inspector approval has been obtained*

Interconnection Customer Information

Customer Name: _____
Primary Contact: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Fax Number: _____ Email Address: _____

Installer Check if owner-installed []

Name: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Telephone (Daytime): _____ (Evening): _____
Fax Number: _____ Email Address: _____

Final Electric Inspection and Interconnection Customer Signature

The distributed generation facility is complete and has been approved by the local electric inspector having jurisdiction. A signed copy of the electric inspector's form indicating final approval is attached. The interconnection customer acknowledges that it shall not operate the distributed generation facility until receipt of the final acceptance and approval by the utility as provided below.

Signed: _____ Date: _____
(Signature of interconnection customer)

Printed Name: _____

Check if copy of signed electric inspection form is attached []

Check if copy of as built documents is attached (projects larger than 10 kVA only) []

Acceptance and Final Approval for Interconnection (for utility use only)

The interconnection agreement is approved, and the distributed generation facility is approved for interconnected operation upon the signing and return of this Certificate of Completion by utility:

Utility waives Witness Test? (Initial) Yes () No ()

If not waived, date of successful Witness Test: _____ Passed: (Initial) _____

Utility Signature: _____ Date: _____

Printed Name: _____ Title: _____

* Prior to interconnected operation, the interconnection customer is required to complete this form and return it to the utility.

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CHAPTER 12

EMPLOYEE CODE

ARTICLE I – GENERAL PROVISIONS

12-1-1 **PREAMBLE.** The Illinois State Statutes dictate that the City Council performs the legislative function of the City. The City Council assigns responsibilities and delegates appropriate authority to provide necessary services to the residents of the City. The people we are serving make the final evaluation of our effectiveness in the election of the Corporate Authorities.

It is the intention of this Code to establish and preserve harmonious relations between the City and its employees for the mutual benefit of both. The fullest cooperation between the City and its employees is necessary in order that the City may secure and sustain maximum productivity by each employee. It is the City's objective to achieve the highest level of employee performance and efficiency consistent with safety, good health and sustained effort. The City recognizes that prompt and effective service to the citizens of the City in a courteous manner is essential to the continued success of the City and that true job security can only be found in the City's continued ability to satisfy its citizens' demands.

Should there exist or become a conflict between any provision of this Employee Code and a union contract that has been entered into by the City, the union contract shall govern the employees covered by that union contract.

12-1-2 **DEFINITIONS.**

(A) **Full-Time Appointed Officials** shall mean salaried personnel who are appointed annually to supervise the activities of City Departments, but shall not include personnel on disability, personal, special or sick leaves, except eligibility of personnel to participate in and receive benefits from City Insurance Plans and the Illinois Municipal Retirement Fund. **(Ord. No. 87-1; 01-06-87)**

(B) **Full-Time Hourly Employees** shall mean personnel employed **one thousand (1,000) hours** or more per year and scheduled to work a **forty (40) hour** week, but shall not include personnel on disability, personal, or special or sick leaves, except eligibility of personnel to participate in and receive benefits from City Insurance Plans and the Illinois Municipal Retirement Fund. **(Ord. No. 87-1; 01-06-87)**

(C) **Full-Time Salaried Employees** shall mean personnel employed on an annual rather than hourly basis, but shall not include personnel on disability, personal, special or sick leaves, except eligibility of personnel to participate in and receive benefits from City Insurance Plans and the Illinois Municipal Retirement Fund. **(Ord. No. 87-1; 01-06-87)**

(D) **Part-Time Employees** shall mean personnel employed less than **one thousand (1,000) hours** per year for a limited time for a specific project.

(E) **Personnel Officer** shall mean Payroll Supervisor at City Hall, and City Agent for IMRF. They shall be responsible for maintaining the Official Personnel Files on all employees. These files contain the complete history of each employee during employment by the City. The files shall consist of, but not be limited to: dates and records of sick leave, injuries, vacation, commendations, reprimands, accidents or damage involving City property, marital status, education, and special training received at City expense.

12-1-3 **HIRING PROCEDURE.**

(A) Applications for employment shall be obtained at City Hall and should be returned to City Hall for review by the City Council and the Department Heads.

(B) If possible, all vacancies may be filled with individuals presently employed by the City, who are qualified and willing to accept the vacant position. Only after determining that the vacancy cannot be filled from within, will outside hire be authorized.

(C) Established employment procedures will be used in recruiting and hiring qualified personnel. Employees will be hired without regard to race, sex, age, religion, national origin, or handicap. The City's Personnel Committee and Department Heads will be responsible for screening, interviewing and recommending to the City Council candidates to fill vacant positions that occur in their department.

(D) Applicants shall furnish information requested on employment forms provided by the Personnel Officer.

(E) Part of the pre-employment procedure shall be to contact all previous employers, supervisors, and references provided by the applicants. Reference contacts made in person or by telephone shall be documented and all contacts shall be completed prior to an offer of employment. Records of oral and written interviews and all reference responses shall become a part of the applicant's file.

(F) If applicable, tests may be used to determine qualifications of candidates for various jobs at the discretion of the Department Head or the City Council.

(G) Acceptance of an application for full-time employment is subject to a physical examination of the applicant by a local physician at the expense of the City. All employees of the City Swimming Pool shall be exempt from the physical examination requirement for employment, except for life guards.

(H) Immediately upon notification of full-time employment, the employee shall contact City Hall concerning Group Insurance and Retirement Benefits.

This Section shall be applicable to part-time employees.

(I) Notwithstanding the foregoing paragraphs of this Section, the procedures for hiring new police officers for the City shall include the following:

- (1) A physical agility test as recommended by the Illinois Law Enforcement Training and Standards Board. This requirement shall be waived in the event the applicant possesses a current certification by the Illinois Law Enforcement Training and Standard Board.
- (2) Written examination in the format sanctioned by the Illinois Chief's of Police Association.
- (3) Background check through appropriate and customary state and/or federal agencies.
- (4) An interview with the City's Police Committee and Chief of Police.
- (5) Certification of qualification by the Illinois Law Enforcement Training and Standards Boards.

(Ord. No. 02-02; 06-18-02)

12-1-4 RESIDENCY POLICY.

(A) Local residency is a condition for employment. An employee shall become a local resident within **six (6) months** after being hired, and shall remain a local resident while employed by the City. Violation of this policy shall result in termination of employment.

(B) Local residency shall be defined as residing in an area within a **nine (9) mile radius** from the center of the Court House Square in the City of Newton, Jasper County, Illinois. A map of Jasper County, Illinois showing the area located within said **nine (9) mile radius** of the center of the Court House Square in the City is attached hereto and incorporated herein by this reference.

(C) No City-owned vehicle shall be permitted outside the City limits unless it is being used for official City business. **(Ord. No. 04-4; 06-01-04)**

12-1-5 EMPLOYMENT OF RELATIVES.

(A) The City considers it improper for a Department Head to have serving under his direction, anyone whose relationship to him is that of a spouse, parent, child, brother, sister, grandparent, grandchild, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, daughter-in-law, brother-in-law, sister-in-law, or son-in-law.

- (B) Employees who are related in any of the categories listed shall not hold a position which involves the review or approval of the work of the other family member.
- (C) This Section shall be applicable to part-time employees.

12-1-6 PROBATION PERIOD.

(A) The first **six (6) months** of service after appointment or promotion to a position shall be considered the period of probation. In the event the probationary period is not completed satisfactorily, the employee shall be discharged. In the case of promotion from a lower position, the employee shall revert to a lower position, with a rate of pay equal to that which the employee would have been entitled to, without promotion.

(B) Every new or promoted employee will have a progress/evaluation report by the Department Head over that employee a minimum of every **three (3) months** during the probationary period and annually after the end of the probation period. Such report shall be submitted to the City Council, with copies placed in the employee's Personnel File, and/or other files as may be required. **(Ord. No. 05-18; 07-05-05)**

12-1-7 SECONDARY EMPLOYMENT (MOONLIGHTING).

No City employee shall work on any other job for any other employer, including self-employment, if such work interferes with the employee's performance of the City's work. Violation of this provision may subject such employee to discipline, up to and including discharge, due to interference with the employee's performance of the City's work.

12-1-8 LAYOFFS AND RECALL.

If the City determines that it is necessary to lay off employee, regular, full-time employees will be given preference in accordance with their seniority subject to their relatively equal skill and ability to perform the work without additional training. Only when skill and ability are relatively equal in the opinion of the City and the senior employee is immediately capable of efficiently performing the work expected to be available shall seniority govern. Part-time, seasonal employees from temporary employment services and probationary employees shall be laid off before applying seniority standards; provided, however, that if employees on layoff have been called and are not available or have not yet reported for work, probationary employees will be the first of these types of employees to be used.

When an employee who would otherwise be laid off has greater seniority as well as relatively equal skill and ability as an employee in any classification and that senior employee is immediately capable of efficiently performing the work expected to be available in such classification, then such employee shall be offered the opportunity to replace the lower seniority employee in such classification and perform his work at the rate for such job classification. There shall be no upgrading in a layoff or recall. Employees shall be recalled in accordance with their seniority subject to their relatively equal skill and ability to perform the work without additional training.

12-1-9 RESIGNATION.

Voluntary resignation by employees shall be submitted in writing to the Department Head at least **two (2) weeks** prior to the date of termination.

12-1-10 SUSPENSION.

An employee may be suspended without pay for a period not to exceed **five (5) days** by the Department Head, with the concurrence of the City Council, or by the City Council, for reasons of misconduct, negligence, inefficiency, insubordination, disloyalty, unauthorized absences, or other justifiable reasons, when other disciplinary actions are not considered appropriate. Employees shall be furnished written notice of all disciplinary action, indicating the effective dates of the action taken and the reason for the action taken. The recipient of the disciplinary action shall endorse a copy of the notice and that copy shall be placed in the employee's file. This Section shall be applicable to part-time employees.

12-1-11 **NORMAL WORK WEEK.** The normal work week for regular full-time employees shall consist of **forty (40) hours**; provided, that this shall not be construed as a guarantee of any work or earnings per day or per week. The Department Head shall have the authority to establish the hours of the day and the days of the week on a pre-arranged schedule that the employee shall work. Employees shall receive at least **one (1) week's** notice of a permanent shift change. The City will not make such changes for the purpose of avoiding overtime. Employees may be scheduled for staggered starting times. Employees will be given as much notice of changes in their regular starting time as is reasonably practicable under the circumstances, except in unusual circumstances not less than **one (1) week**.

12-1-12 **CALL-OUTS.** On call-outs, employees shall be paid a minimum of **one (1) hour** and if they work over **one (1) hour** but less than **two (2) hours**, they shall be paid for **two (2) hours**, and any work over **two (2) hours** shall be paid for the time actually worked, with the rate of pay being time and one-half. **(Ord. No. 96-15; 08-06-96)**

12-1-13 **HOURS OF WORK.** All departments shall observe regular office or working hours necessary for the efficient transaction of services as determined by the City Council. Working hours for appointed officials and full-time salaried employees shall be those necessary to assure acceptable job performance. This Section shall be applicable to part-time employees.

12-1-14 **TARDINESS.** Employees are expected to be present and ready to start work at the appointed starting time. Excessive tardiness may be cause for disciplinary action.

To permit a **six (6) minute** leeway for clocking in after the starting work time. If any employee punches in **ten (10) minutes** after the starting time, they shall be considered late. **(3-19-91)**

Punch-in-time for time clocks shall be **7:00 A.M.** and any portion of the first **fifteen (15) minutes** time shall be docked **fifteen (15) minutes**, the second **fifteen (15) minutes** time shall be docked **thirty (30) minutes** and etc. Employees may punch in when they please, but will not get paid until the starting time of **7:00 A.M.** Punch-out time shall be treated the same, but docked time shall be in reverse. Employees shall not be allowed to punch out early without being docked in pay. Employees are not allowed to use compensatory time to compensate for loss of pay due to being late or punching out early. Anyone who abuses punch-in time or punch-out time shall be brought before the City Council to discuss the problem. **(5-7-91)**

12-1-15 **REST BREAKS.** There shall be a paid rest break of **fifteen (15) minutes** in the first **four (4) hours** and in the second **four (4) hours** whenever employees are scheduled to be employed for **eight (8)** or more hours during the morning or the afternoon. Breaks must be taken on the jobsite or at the shop. The **fifteen (15) minute** break time includes any and all travel time. The break periods are not cumulative and work shall come first. Breaks shall be staggered within a department.

12-1-16 **HOLIDAYS.**
(A) Each regular, full-time employee who has been in the continuous service of the City for at least **thirty (30) days** prior to any of the holidays hereinafter listed, irrespective of what day of the week on which the holiday may fall, shall receive **eight (8) hours** (EXCEPT for New Year's Eve which shall be **four (4) hours**) of pay at his or her regular basic straight-time hourly rate of pay for each such holiday, provided, however, that such employee shall have worked all hours required on the last scheduled work day before and on the first scheduled work day after the holiday or holidays (in the case of two holidays on successive days) or the day or days celebrated by the City as such. The holidays shall be:

New Year's Day	Veteran's Day
Good Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving Day

Independence Day	Christmas Eve Day
Labor Day	Christmas Day
New Year's Eve (4 hours)	

(Ord. No. 20-12; 09-15-20)

(B) Eligible employees who have been scheduled to work on a holiday and fail to do so shall not receive pay for the holiday. An employee absent or not receiving pay for that day for any reason, including but not limited to, leave of absence, shall not be eligible for holiday pay. Employees who may be laid off for lack of work in a work week containing a holiday or the week before or after such holiday shall not thereby be rendered ineligible for holiday pay.

(C) Employees who work on a holiday shall be paid for such work at time and one-half their regular basic hourly straight-time rate of pay for all hours of work performed on the holiday together with, if eligible, the holiday pay provided for above.

(D) If a holiday designated above falls on a Saturday or a Sunday, the City may designate when such holiday will be observed.

(E) If a holiday falls within an employee's scheduled vacation period, the employee shall receive holiday pay.

12-1-17 VACATIONS.

Full-time employees will be granted paid vacations as follows:

After one (1) year of service	5 days
After three (3) years of service	10 days
After seven (7) years of service	15 days
After fifteen (15) years of service	20 days
After twenty (20) years of service	25 days

Employees hired prior to **May 1, 2014** will be granted paid vacations as follows:

After two (2) years of service	10 days
After seven (7) years of service	refer to chart above

Employees hired prior to **November 1, 2004** will be granted paid vacations as follows for service beyond **fifteen (15) years**:

After fifteen (15) years of service	21 days
After twenty (20) years of service	refer to chart above

Unless mutually agreed to by the supervisor and the employee, employees must give the City at least **ten (10) day's** written notice of their intention to take vacation and such requests must be approved in writing. The City will notify the employee at least **seven (7) days** prior to the requested vacation as to the status of their request.

All vacation must be used in the year earned, with no more than **five (5) days** carried over to the following year. All carried over vacation days must be used before the last pay period in April of the year they are carried forward, unless due to the request of the Employer an employee cannot take a scheduled vacation.

All vacation must be used in a minimum of **one-fourth (1/4) hour** increments.

(Ord. No. 14-09; 06-03-14)

12-1-18 PERSONAL DAYS. Upon application in writing, leave from employment for personal reasons may be granted without pay to an employee upon written approval. Such unpaid personal leave may not be for a period in excess of **seven (7) calendar days**. During such personal leave, an employee may continue health and life insurance benefits, if available, provided he pays the full cost of such coverage. However, no other benefits shall accrue during a leave for personal reasons.

Each employee shall receive **one (1) paid personal day** per year after **one (1) year** of employment; **two (2) paid personal days** per year after **five (5) years** of employment; and **three (3) paid personal days** per year after **ten (10) years** of employment. Notification of the employees' intent to use a personal day must be made at least **two (2) days** prior to the beginning of that shift, except in case of an emergency, and must be approved. Approval for use of a personal leave day will not be unreasonably denied.

Employees can take personal leave in increments of **one-fourth (1/4) hours** or more.

Personal days shall be used during the calendar year of the entitlement and cannot be turned in for money.

Blood Donations. An employee will be allowed to use sick time off with pay to donate blood at any Blood Drive within the City limits.

12-1-19 PAID JURY LEAVE. When regular, full-time employees are required to perform jury service, they shall immediately notify their supervisor upon receipt of notice of call to such service. Employees whose jury duty does not require them to be absent an entire day shall immediately report their availability for work that day to their supervisor. Employees will receive their normal pay for the day, but the employee must submit their pay for jury service to the City whenever they receive it. The employee may retain any payment for mileage. Whenever considered necessary by the City because of operational needs, an employee shall cooperate with the City in requesting a postponement of jury service.

12-1-20 SCHOOLING: APPROVAL.

(A) No employee shall attend any schooling program for which they wish to be reimbursed in any manner without prior approval of the Council.

(B) No employee shall be paid his regular salary for attending school on his off-time. Off-time shall be construed to mean anytime the employee is not on a regular scheduled work shift.

(12-4-84)

(C) Mileage reimbursement for City Employees attending training, seminars, or other similar schooling shall be reimbursed following Internal Revenue Service guidelines in force at the time of the request for reimbursement. Meal allowance for Employees engaged in said training and/or schooling programs shall be for a total of **Thirty Dollars (\$30.00)** per day. An employee requesting meal allowance must submit receipts to get reimbursement. No overtime will be paid for travel over **eight (8) hours** in attending such training and/or schooling if it occurs on a regular work day. **(Ord. No. 09-4; 05-19-09)**

12-1-21 SICK LEAVE. City employees, including probationary employees shall accumulate sick leave at the rate of **four (4) hour** per pay period, which may accumulate to a maximum of **one hundred twenty (120) days**.

Sick leave may be used for personal illness of employee, or the employee's spouse, parents or children.

The Employer may require a physician's certificate after an absence of **three (3)** consecutive working days or as may be deemed necessary in other cases.

Sick leave may be used in **one-fourth (1/4) hour** increments. The City reserves the right to request proof of actual attendance at medical appointments during working hours.

12-1-22 RETURN TO WORK FROM SICK OR DISABILITY LEAVE. No employee shall be eligible to return to work from sick leave, or sick leave whereby the employee is receiving disability benefits, unless the employee is able to return to and perform all of his or her existing assigned duties. When an employee is under treatment by a licensed physician, the employee shall, prior to returning to work, present to the City Treasurer a release from his physician certifying that the employee is able, unconditionally, to return to and perform all of his or her existing assigned duties. **(Ord. No. 87-1)**

12-1-23 MATERNITY. Pregnancy, childbirth, and related conditions are considered the same as any other medical condition. Accrued sick leave shall be used during Maternity Leave.

12-1-24 **FUNERAL LEAVE.**

(A) An employee may use up to **three (3) days** with pay following the date of death in the Employee's immediate family which shall be interpreted to include: the employee's spouse, children (including step-children and foster children), grandchildren, parents (including step-mother and step-father), grandparents, brother-in-law, sister-in-law, son-in-law, daughter-in-law, siblings and the same relatives of the employee's spouse. Employees may use **one (1) day** with pay for bereavement leave in the event of an aunt or uncle.

(B) The employee shall notify the City giving as much notice as possible of the hours of necessary absence. Proof of death, relationship, and attendance at the funeral may be required by the City.

(C) Funeral leave pay shall not be due when the employee is on layoff or non-paid leave. Employees who are on vacation or holiday status on a day where they are also eligible for funeral leave will receive additional vacation/holiday(s) for the day(s) in issue.

12-1-25 **ABSENCE WITHOUT LEAVE.** An employee and Department Heads shall inform his immediate supervisor (Department Head or City Clerk) of the reason for any absence by **8:30 A.M.** on the **first (1st) day** of absence, and on each succeeding day of absence unless specific arrangements are made during initial notification. Additionally, each employee with the exception of second and third shift personnel in the Police Department and Water Plant, shall call the City Clerk's Office by **8:30 A.M.** daily as to his/her working status. Reasons for absences must be noted daily to City Clerk's office and recorded on the time sheet by the employee. All City employees shall complete a City Leave Request Form and submit it to the City Treasurer's Office. Failure to do all of the above will subject the employee to disciplinary action from the City Council. If an employee does not report the reason for being absent by the **second (2nd) day** of absence from duty, deduction of pay will be made. **Three (3)** consecutive days of absence without notice shall be considered a resignation from City employment. **(Ord. No. 01-04; 02-20-01)**

12-1-26 **INJURIES.**

(A) The City is now using a form for reporting injuries as follows: Record of First Aid Treatment for Occupational Injuries to be Completed by Employee. Name of injured, date of injury and time of day. Was first aid treatment given? Date and time, type of treatment.

(B) Type of injury specified, part of body injured, be specific. How did injury occur?
The statement shall be signed and dated by the employee and signed and dated by the Department Head. In the event medical treatment by a doctor is required, this form is to be turned into the Treasurer's office within **twenty-four (24) hours**. All reports are to be kept in the employee's personnel file in the Treasurer's office. **(Ord. No. 96-6; 02-20-96)**

12-1-27 **COMPENSATION.**

(A) Payroll for City employees shall be set up on a bi-weekly system, with the pay periods beginning at **7:00 A.M.** on Tuesday and ending **two (2) weeks** later at **7:00 A.M.** on Tuesday.

(B) Each employee is to keep a daily time sheet -- overtime and other hours to be kept separately and indicated as such.

(C) Time sheets are to be reviewed and approved by the Department Head by signature, and presented in the City Treasurer's office before **9:00 A.M.** on the day ending each pay period, for payroll approval and employee records.

All time should be reported on time card with start and quitting and number of hours worked including compensation time and explanation of compensation time. If these hours are not properly reported on time cards, the employee will be asked to fill out card correctly. If this cannot be done at the Treasurer's option, the employee may not be compensated for his unreported time. **(2-19-85)**

12-1-28 OVERTIME.

(A) Overtime may be required when, in the City's judgment it is necessary. Daily overtime assignments required to finish work assigned for that day may be performed by the employee(s) assigned such work during regular shift time. Overtime assignments on jobs commencing after regular work hours, Saturdays, Sundays or holidays shall be rotated as equally as feasible over a reasonable period of time among the employees who are immediately qualified to perform such work within the job classification.

(B) All hourly employees are eligible for overtime compensation when required to work more than a normal work week. All hours worked in excess of **forty (40) hours** per week shall be considered overtime and shall be paid for at the rate of time and one-half (1 ½) the employee's regular, basic straight-time rate. All paid time off shall count as time worked for the purpose of overtime computation.

(C) To permit any employee to be paid for **one (1) hour** of overtime if the employee is called out and the time worked is less than an hour. After **two (2) hours** of outage, the employee will be paid for time worked. **(3-19-91)**

(D) Notwithstanding the foregoing, all pool employees shall be paid overtime only after working more than **forty (40) hours** a week. **(Ord. No. 96-10; 06-04-96)**

(E) Employees may elect to receive compensatory time for overtime hours earned up to a maximum of **forty (40) hours** in a fiscal year. The said maximum **forty (40) hours** compensatory time may be carried over into subsequent fiscal years. At no time shall an employee be able to earn, use or accumulate more than **forty (40) hours** in any year.

12-1-29 GRIEVANCES. A grievance is defined as any dispute which reasonably concerns the application, interpretation or violation of any express or specific provision of this Employee Code.

An employee must present and appeal any grievance within the time limits set out in the respective steps of the grievance procedure, unless a mutual extension of time limits is agreed to.

The City will meet with an employee and that employee's union representative and subsequently respond within the time limits set out in the respected steps of the grievance procedure.

Grievances which affect all or a large group of employees, or which have general application, may be presented directly for handling at Step 2.

Any grievance arising over the application or interpretation of the provisions of this Employee Code shall be settled as soon as possible in the following manner:

Step 1. An employee having a grievance shall present it to his/her Department Head within **three (3) days** of knowledge of the occurrence of the incident.

Step 2. If satisfactory settlement is not reached in **twenty-four (24) hours**, the grievant may reduce the grievance to writing and present it to the Chairman of the applicable committee within **four (4) working days** of the occurrence of the incident.

Step 3. The grievance may be processed further by notifying the City Council, within **seven (7) working days** of the decision of the Chairman of the applicable committee, of the Union's desire to discuss the matter further with the City Council. The Business Representative of the Union and the City Council then shall meet and attempt to resolve the dispute.

Step 4. Either party shall have the right to submit the grievance to arbitration. Notification in writing of a desire to submit a grievance to arbitration must be given within **fifteen (15) working days** after completing Step 3.

Nothing contained herein shall be construed to circumvent the right of an employee to take grievance up with the Employer and have the same settled without the intervention of the Union; provided settlement is not inconsistent with any of the provisions of the applicable union contract, and further provided the union has been given the opportunity to have a representative present at the time of the settlement.

12-1-30 **WORKER'S COMPENSATION INSURANCE.**

(A) Any job related injury must be reported by the employee within a maximum of **twenty-four (24) hours** to the insurance administrator at City Hall.

(B) In Workman's Compensation the first **three (3) days** waiting period required before workman's compensation payment commence shall be charged against the employee sick leave. Further, the City shall not reimburse the employee for the difference between the **two-thirds (2/3)** salary paid by Workman's Compensation and the employee regular salary unless employee desires to use accumulated sick leave for the purpose. If Workman's Compensation period extends to **fourteen (14) days** the method of reimbursement for said first **three (3) days** shall be negotiated with the City Treasurer. **(2-19-85)**

(C) All time spent receiving medical attention on the date of injury, related to the injury, shall be paid as time worked at the appropriate hourly rate of pay.

12-1-31 **GROUP HEALTH AND LIFE INSURANCE.**

(A) The City bears the expense of the Group Insurance Premium for full-time employees. If insurance for dependents is desired by the employee, this expense will be deducted from the payroll check of the employee each month.

(B) Any City employee who has **fifteen (15) years** of service with the City and who retires at or after age **sixty-two (62)**, may, if so desired, stay with the City's Group Health and Medical Insurance Plan with the retiree paying the cost of the premiums. These premiums to be in the City Treasurer's office **one (1) work week** in advance of the company invoice due date.

(C) The City Council reserves the right to withdraw participation of retirees coverage, but will honor those retirees already enrolled in the program until age **sixty-five (65)**.

12-1-32 **LIABILITY INSURANCE.** Any accident claims pertaining to City vehicles and property must be reported to City Hall within a maximum of **twenty-four (24) hours**, or the employee or employee's involved will be held responsible for payment of the insurance deductible and subject to possible disciplinary action; such as suspension without pay for an indefinite period.

12-1-33 **RETIREMENT.** All employees who work more than **six hundred (600) hours** per year shall participate in the Illinois Municipal Retirement Fund. This pension program is established and controlled by the Illinois State Statutes which require this participation. Some employees may fall under the **six hundred (600) hour** rule and others under the **one thousand (1,000) hour** rule.

All IMRF participants are encouraged to retire at the age of **sixty-five (65)**. Earlier retirement is permitted at the employee's option.

12-1-34 **SUBSTANCE ABUSE POLICY.** The City does hereby incorporate and repeat verbatim the Substance Abuse Policy for the City of Newton's DOT-All C.D.L. Driver's and Substance Abuse Policies for the City's non-D.O.T., as found in Addendum "A" and "B" at the conclusion of this Chapter. **(Ord. No. 98-12; 09-01-98)**

12-1-35 **REIMBURSEMENT FOR TRAINING COSTS.** Any City employee who ends their employment with the City within **three (3) years** of their date of hire shall reimburse the City for all costs incurred by the City in training that individual to obtain any certification necessary for the performance of that employee's job with the City. Insofar as a City Police employee is involved, such reimbursable costs shall be the cost of the police academy training for that employee. The employee shall receive credit on a monthly prorated basis for the number of months the employee was in the actual employment of the City within the said **three (3) year** time frame. **(Ord. No. 02-09; 06-18-02)**

12-1-36 **SEXUAL HARASSMENT POLICY.** There is hereby adopted a Sexual Harassment Policy and Complaint Procedure as set forth in Addendum "C" attached hereto and incorporated herein by this reference. **(Ord. No. 02-03; 02-05-02)**

12-1-37 **DEPARTMENT HEADS SALARIES.** A Department Head Salary shall be set at one of three levels of pay: Level One (1) is for the seasoned manager that is in good standing with the City. Level Two (2) is for the less seasoned manager that is in good standing with the City. Level Three (3) is for a new or like new Department Head that is in good standing with the City. Effective June 6, 2017, the Level One (1) pay rate shall be **Twenty-Two Dollars Fifty-One Cents (\$22.51)** per hour. Level Two (2) pay rate shall be **Twenty-One Dollars Twenty-Nine Cents (\$21.29)** per hour. Level Three (3) shall be **Twenty Dollars Seventy-Nine Cents (\$20.79)** per hour. The Mayor and City Council will evaluate each Department Head's longevity and merit annually and their rate of pay will be adjusted accordingly. **(Ord. No. 17-06; 06-06-17)**

12-1-38 **EMPLOYEE BENEFITS/INJURY.**

(A) **Police Employee.** Pursuant to Illinois Statute **5 ILCS 345/1**, whenever a police officer suffers an injury in the line of duty which causes the police officer to be unable to perform the police officer's duties, the police officer shall continue to be paid by the City on the same basis as the police officer was paid before the injury, with no deductions from the police officer's sick leave credits, compensatory time for overtime accumulations or vacation or service credits with IMRF during the time the police officer is unable to perform the police officer's duties due to the result of the injury, but not longer than **one (1) year** in relation to the same injury.

(B) **Full-Time Regular Employees Who Are Not Police Officers.**

- (1) A full-time City of Newton employee (excluding police officers) who is receiving worker's compensation benefits and who is unable to work will not accrue sick time while receiving worker's compensation benefits. If a full-time employee receiving worker's compensation benefits can return to work part-time, that employee's sick time accrual will be based accordingly upon the hours worked in a normal pay period.
- (2) Vacation and personal time are governed by the City and the Union agreement. Vacation days shall be used in the year earned. Personal days shall be used during the calendar year of entitlement and cannot be turned in for money.
- (3) An employee on worker's compensation who is unable to use vacation or personal hours in the year they are accrued will not be able to carry those benefits over into the next year and the vacation hours and/or personal hours cannot be turned in for monetary compensation.
- (4) On **January 1** each employee will accrue vacation and personal time based on number of years of service, or on their anniversary date of employment if additional benefits are earned due to years of service, the said benefits would be for the year accrued, would also be subject to the above rules and cannot be turned in for monetary compensation.
- (5) When an employee, excluding police officers, is off work due to a work related injury, and is receiving worker's compensation benefits, the City will pay the injured employee's share of health insurance costs, but the employee shall be responsible for dependent care insurance costs and for any other type of withholdings the employee is having taken out of the employee's paychecks.

(Ord. No. 11-1; 02-15-11)

12-1-39 **MEETING COMPENSATION.** Any such Department Head or other City employee who is required to attend a City Council Committee Meeting and who does in fact attend such shall be compensated for any hours beyond **forty (40) hours** in the given week in question at a rate equal to **one and one-half (1 ½) times** the person's regular hourly rate of pay.

Any Department Head or City employee who attends a Committee Meeting who is not specifically listed on the Notice of the meeting will be deemed to have attended the Committee Meeting on a voluntary basis and will not receive any additional compensation. **(Ord. No. 22-15; 10-04-22)**

(Ord. No. 07-16; 12-18-07)

ARTICLE II - SEXUAL MISCONDUCT POLICY

12-2-1 SEXUAL MISCONDUCT POLICY STATEMENT. The City will not tolerate and will seek to eradicate any behavior by its employees, volunteers or students which constitutes sexual misconduct toward another employee, volunteer or student. "Sexual misconduct" means any actual, attempted or alleged sexual molestation, assault, abuse, sexual exploitation or sexual injury. "Sexual misconduct" does not include "sexual harassment".

12-2-2 REPORTING PROCEDURES AND DESIGNATED SEXUAL ABUSE COORDINATOR. It is the express policy of the City to encourage victims of sexual misconduct, and their parents or guardians in the case of minors, to come forward with such claims. The Mayor shall designate a Sexual Abuse Coordinator, who hereinafter shall be referred to as "Coordinator", who shall remain accountable for the implementation and monitoring of this policy. The identity of the Sexual Abuse Coordinator shall remain on file with the City. In order to conduct an immediate investigation, any incident of sexual misconduct shall be reported as quickly as possible in confidence, as follows:

(A) **Employees and Volunteers.** Employees and volunteers are required to report any known or suspected incidents of sexual misconduct. They must also report to their supervisor or the Coordinator. If the person to whom an employee or volunteer is directed to report is the offending person, the report should be made to the next higher level of administration or supervision.

(B) **Investigation and Confidentiality.** All formal complaints will be given a full impartial and timely investigation. During such investigation, while every effort will be made to protect the privacy rights of all parties' confidentiality cannot be guaranteed.

(C) **Discipline.** Any City employee or volunteer who is determined, after an investigation, to have engaged in sexual misconduct in violation of this policy will be subject to disciplinary action up to and including discharge.

False accusations regarding sexual misconduct will not be tolerated, and any person knowingly making a false accusation shall likewise be subject to disciplinary action up to and including discharge, with regard to employees or volunteers.

The City shall discipline any individual who retaliates against any person who reports alleged sexual misconduct or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to a sexual misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

12-2-3 CHILD ABUSE. Sexual abuse of a minor is a crime.

(A) **Child Abuse Incident Reporting and Follow-Up.** Any case of known or suspected child abuse of a minor must be reported immediately in compliance with Illinois mandatory reporting guidelines and to the Coordinator and the City Attorney's Office.

In the event that the Coordinator is first notified of an incident of known or suspected child abuse, the Coordinator shall immediately notify the child's parent or legal guardian as the case be, and the appropriate legal authorities as required by state or local law. The Coordinator shall prepare a Suspected Child Abuse Standard Report and immediately follow-up to investigate the incident and to ascertain the condition of the child. The Coordinator shall communicate any questions or concerns about any incident with the State's Attorney.

Any employee or volunteer involved in a reported incident of sexual misconduct or child abuse shall be immediately relieved of responsibilities that involve interaction with minors or shall be suspended, as determined by the employee's supervisor. Reinstatement of employees or volunteers involved in a reported incident of child abuse shall occur only after all allegations of child abuse have been cleared by the City.

(B) **Maintenance of Records and Documents.** The Coordinator shall maintain all records and documentation required by law or otherwise required by this and other such related policies of the City including all documents related to procedures for hiring-screening, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting follow-up and disciplinary action.

ARTICLE III – ANTI-BULLYING POLICY

12-3-1 APPLICATION OF POLICY. The City finds a safe work environment is beneficial for employees and promotes productivity. Workplace bullying has been linked to absenteeism, drug and alcohol use, and sexual violence. The City considers workplace bullying unacceptable and will not tolerate it. The anti-bullying policy shall apply to all individuals who are employees, volunteers and contractors. For purposes of this policy:

- (A) "Employee" is defined as an individual working for the City for remuneration;
- (B) "Volunteer" is defined as an individual who volunteers services to the City without remuneration;
- (C) "Contractor" is defined as an individual who contracts with the City to provide services, or an individual who works for a contractor of the City.

12-3-2 DEFINITION. Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) placing the person in reasonable fear of harm to the person or the person's property;
- (B) causing a substantially detrimental effect on the person's physical or mental health;
- (C) substantially interfering with the person's productivity; or
- (D) substantially interfering with the person's ability to participate in or benefit from the opportunities offered by the employer.

Bullying may be intentional or unintentional. The City considers the following types of behavior illustrative examples of bullying: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

12-3-3 BULLYING PROHIBITED. Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, and any other distinguishing characteristic is prohibited in all places of employment, and an employer shall prevent bullying in its place of employment.

- (A) No person shall be subjected to bullying:
 - (1) during any period of employment activity;
 - (2) while working, on property of the employer, or at employer-sponsored or employer-sanctioned events or activities; or
 - (3) through the transmission of information from an employment utilized telephone, computer, computer network, or other similar electronic employer-utilized equipment.
- (B) Nothing in this policy is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment of the United States Constitution.

12-3-4 DISCIPLINARY ACTION. Any employee or volunteer who is determined, after an investigation, to have engaged in bullying in violation of this policy shall be subject to disciplinary action up to and including immediate discharge. Any contractor found to be in violation of this policy may be subject to contract cancellation.

(A) **False Accusations.** False accusations regarding bullying against employees, volunteers, contractors, or elected officials shall not be tolerated, and any person knowingly making a false accusation shall be subject to disciplinary action up to and including immediate discharge.

(B) **Retaliation for Reporting Bullying.** The City shall discipline any employee or volunteer who retaliates against any person who reports who reports alleged bullying, or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to bullying complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Contractors are likewise prohibited from retaliating.

12-3-5 REPORTING AND COMPLAINT PROCEDURE. The City encourages all employees, volunteers or contractors to promptly report any instance of bullying behavior. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of bullying. Therefore, while no fixed reporting period has been established, prompt reporting of complaints or concerns is encouraged so that rapid and constructive action can be taken. The City shall make every effort to stop alleged workplace bullying before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Reports of bullying will be treated seriously, and investigated promptly and impartially. The City further encourages all individuals to whom this policy applies to formally report any concerns of assault, battery, or other bullying behavior of a criminal nature to the City Attorney's office. The City Council requires any supervisor who witnesses bullying, irrespective of reporting relationship or his/her responsibility to address it, to promptly report this conduct to the Police Chief or the Mayor.

Individuals who believe they have experienced conduct that they believe violates this policy, or who have concerns about such matter, should report their complaints or concerns verbally or in writing to his or her supervisor, or the City Attorney, before the conduct becomes severe or pervasive. If a verbal report is made, it shall be documented in writing by the official to whom it is reported. Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to bullying conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that such behavior immediately stop.

ARTICLE IV – DOMESTIC AND SEXUAL VIOLENCE POLICY

12-4-1 **PURPOSE OF POLICY.** Domestic violence can permeate the lives and compromise the safety of employees with tragic, destructive and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past. Domestic violence represents a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against another in an intimate relationship or in the same household, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The City will take appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

12-4-2 **DEFINITION.** For purposes of this policy and pursuant to the Illinois Victims' Economic Security and Safety Act (VESSA), the following terms are defined as follows:

(A) **"Abuser":** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

(B) **"Domestic Violence":** Domestic violence means abuse by a family or household member, as defined by this policy pursuant to Section 103 of the Illinois Domestic Violence Act of 1986. Domestic violence includes sexual assault or stalking.

(C) **"Employee":** A person working for the City for remuneration for services.

(D) **"Family or Household Member":** For employees with a family or household member who is a victim of domestic or sexual violence, this means spouse, parent, son, daughter, other person related by blood or by present or prior marriage, another person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(E) **"Parent"** means biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter as defined herein.

(F) **"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under **eighteen (18) years** of age, or is **eighteen (18) years** of age or older and incapable of self-care because of a mental or physical disability.

12-4-3 **VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA).** The person against whom an abuser directs coercive and/or violent acts, including an employee who is a victim of domestic or sexual violence, or an employee's family or household member who is a victim of domestic or sexual violence, and whose interests are not adverse to the employee as it related to domestic or sexual violence.

12-4-4 **POLICY.**

(A) **Employee Awareness.** The City shall take reasonable actions to educate employees regarding the effects of domestic violence and methods to report such violence to authorities. It is the policy of the City that information on domestic violence and available resources shall be available to employees through the City Council and by this written policy, which shall be disseminated to employees.

(B) **Non-Discriminatory Policy.** Non-Discriminatory and Responsive Personnel Policies for Victimized Employees of the City shall ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- (1) Illinois law prohibits employers from interfering with, restraining, or denying the exercise of any right provided under VESSA. This law requires employers, when given **forty-eight (48) hours** prior notification, to allow time off for employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from the employer for the employee or the family or household member who is a victim.
- (2) Illinois law prohibits employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence.
- (3) An employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence and whose interests are not adverse to the employee as it relates to domestic or sexual violence, may take unpaid leave from work to address domestic or sexual violence by:
 - (a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the victim;
 - (b) obtaining services from a victim services organization for the victim;
 - (c) obtaining psychological or other counseling for the victim;
 - (d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the victim;
 - (e) seeking legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.
- (4) The employee shall be entitled to a total of **twelve (12) workweeks** of leave during any **twelve (12) month** period. This policy does not create a right for an employee to take an unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to, the unpaid leave time permitted by the federal Family Medical Leave Act. Leave may be taken intermittently or on a reduced work schedule. An employee may substitute accumulated paid leave for unpaid leave; however, the paid leave will count toward the number of workweeks used for purposes of this policy. The employee shall provide at least **forty-eight (48) hours** advance notice of the employee's intention to take leave, unless providing such notice is not practicable. No action will be taken against an employee for failing to provide **forty-eight (48) hours** advance notice if the employee provides certification that leave was used for the purposes outlined in **Section 12-4-4(B)(2)** of this Section and can demonstrate that advance notice was not practicable.
- (5) During a leave taken pursuant to this policy, the City shall maintain coverage under its group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of such leave. If the employee fails to return from leave, however, the City may

recover any premium costs it paid for such coverage if the reason for the employee not returning is other than the continuation, recurrence, or onset of domestic or sexual violence or circumstances beyond the control of the employee. Neither seniority nor leave benefits will accrue to the employee during unpaid leave.

- (6) The City, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family or household member who has been a victim of domestic violence, the employee's supervisor or the City Council (or their designee) will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- (7) The City requires certification from an employee for leave under this policy. The employee shall certify that the leave is for one of the purposes enumerated in **Section 12-4-4(B)** of this Section. Certification shall be provided to the employer within a time period set by the employer.
- (8) The City understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required certification to justify absences without compromising their safety. Therefore, the Mayor or his designee shall consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- (9) All information provided to the employer pursuant to notification and certification requirements of this policy, and the purposes for which leave may be requested pursuant to this policy, shall be retained in strictest confidence by the employer, except to the extent that disclosure is requested or consented to in writing by the employee, or otherwise required by applicable federal or State law. Reported information shall be kept private to the greatest extent possible by Federal law, State law, and City policy; however, information may have to be disclosed pursuant to a subpoena, Illinois Supreme Court Rules, a court of law, or where otherwise required by law. Where medical information is received by the City from an employee who is the victim of domestic violence, such medical information shall be kept confidential.
- (10) Employees who are victims of domestic violence and who are legally separated from a covered spouse or civil-union partner, shall be allowed to make reasonable changes in benefits at any time during the calendar year, provided the change is requested within **thirty (30) days** of the separation and is in accordance with the City policies, rules, and regulations.
- (11) The City will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.

(C) **Accountability for Employees Who are Abusers.** The City will hold employees, individuals who volunteer services to the City without remuneration (hereafter "volunteers"), and individuals who contract with the City or work for contractors of the City (hereafter "contractors"), accountable for engaging in the following behavior: (i) using City resources to commit an act of domestic violence; (ii) committing an act of domestic violence from or at the workplace or from any other location while on official City business; or (iii) using their job-related authority and/or City resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

Any physical assault or threat made by an employee, volunteer, or contractor, while on City premises, during working hours, while representing the City, or at a City-sponsored event, is a serious violation of this policy. This policy applies not only to acts against employees, but to acts against all other persons. Those found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.

- (1) In cases in which the City has found that an employee, volunteer, or contractor, has threatened, harassed, or abused an intimate partner at the workplace using City resources such as work time, workplace telephones, facsimile machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action.
- (2) In cases in which the City has verification that an employee, volunteer, or contractor is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee, volunteer or contractor has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the Mayor shall determine if corrective action is warranted.
- (3) In cases in which any employee, volunteer, or contractor intentionally uses his/her job-related authority and/or intentionally uses City resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his/her behavior, said individual may be subject to corrective or disciplinary action.

EMPLOYEE CODE

ADDENDUM "A"

SUBSTANCE ABUSE POLICIES
FOR
CITY OF NEWTON DOT

- I. **Purpose.** It is the goal of the City to provide a safe, healthful work environment for all employees which is free from the influence of drugs and/or alcohol. The City is especially concerned about the potential danger when an employee working with and around machinery is impaired because of drugs and/or alcohol. Conduct inconsistent with the terms or spirit of this policy is prohibited.

- II. **Policy.** The City expects all employees to report for work in a condition to perform the duties of their job. While the City does not intend to intrude into the private lives of its employees, the City recognizes that employees' off-the-job, as well as on-the-job involvement with drugs and/or alcohol can have an impact on the workplace and on the City's ability to accomplish its goal of a drug and alcohol free work environment. Accordingly, the City has adopted the following policies:
 - A. **Illegal Drugs or Controlled Substances and/or Alcohol.** It is the policy of the City to prohibit the use, manufacture, and/or distribution of illegal drugs as defined herein and/or alcohol on City premises and to prohibit employees from reporting to work or working while under the influence of illegal drugs or controlled substances and/or alcohol. Any employee who is found to have engaged in such actions will be disciplined up to and including termination. The use of the term illegal drug(s) also covers abuse of over-the-counter or prescription medications.
 - B. **Fitness for Duty.** Employees may not work while under the influence of drugs and/or alcohol. The City has the discretion to decide who and under what circumstances an employee is fit for work. Individuals who appear to be unfit for duty will be relieved from their job and may be subject to a physical examination, drug and/or alcohol test. Prior to any physical exam or testing required therein, employees are required to sign a consent form which consents to the exam or testing procedure and which allows release of information directly to the City. Refusal to cooperate in a physical examination or drug and/or alcohol test will result in disciplinary action, up to and including discharge.
 - C. **Off-The-Job Drug and/or Alcohol Use.** Off-the-job illegal manufacture, distribution, dispensing, use, sale and/or possession of illegal drugs could adversely affect an employee's job performance, the safety of employees, visitors, or the public, the City reputation, and City property, and may result in disciplinary action, up to and including discharge.
 - D. **Definition of an Illegal Drug.** An "illegal drug" includes any drug which is not legally obtainable in the United States or which is legally obtainable, but is being used in a manner different from that prescribed by a physician or intended by the manufacturer. Over-the-counter or prescription medication which is prescribed by a physician and/or is being used for the purpose intended by the manufacturer, shall not be considered illegal drugs. An employee taking such medication during working hours or while in the workplace should so notify his/her supervisor. The City may require the employee to produce a physician's prescription for such medication.
 - E. **Reporting Obligation.** The employees have an obligation to comply with and support this policy. Employees who are aware of violations of this policy should contact their supervisor. The City will ensure anonymity and such information will be treated in confidence.
 - F. **Searches.** The City may conduct searches on and of its property, including inspection of lockers, desks, lunch boxes, tool boxes, packages, briefcases, handbags and company vehicles. As a condition of employment, employees may be required to submit to searches of their personal effects or vehicles while on City premises. Refusal to cooperate will be considered insubordination and will subject the employee to discipline up to and including termination. It is the City's intent to conduct searches only in the event of reasonable cause as defined in Paragraph (G)(2) and in the least obtrusive manner appropriate under the specific circumstances. Any illegal substance found on City property may be turned over to appropriate law enforcement authorities for investigation and possible criminal enforcement action.
 - G. **Urine Drug Test and/or Breath Alcohol Testing.** The following are some of the circumstances under which an individual will be required to undergo testing for illegal drug and/or alcohol use. A urine specimen is required for drug screen and a breath alcohol test will be used for alcohol.

1. **Pre-Employment.** All prospective employees for which a conditional offer of employment has been made must undergo and pass a pre-employment drug screen at the prospective employees cost.
2. Where there is reasonable cause to believe that the employee has taken, used, ingested or is otherwise under the influence of an illegal drug and/or alcohol. Reasonable cause may arise when the employee's behavior, appearance, judgment, coordination, job performance, speech or other objective facts indicate the employee may be using or be under the influence of drugs and/or alcohol. In the event of a "Reasonable Cause" report, the City must document by means of a report the objective facts giving rise to suspicion and the documentation must be signed by the person(s) making the observation.
3. When the employee is involved in an on-the-job accident or unsafe practice, or as part of an accident investigation.
4. When the employee is returning from participation in or completion of a drug and/or alcohol rehabilitation program or the City's Employee Assistance Program.

Refusal to cooperate in a required drug and/or alcohol test will be considered insubordination and will subject the employee to discipline up to and including termination.

H. **Random Drug and Alcohol Testing Policy.** The City has adopted a policy whereby random drug and alcohol tests will be given to various employees during working hours at various times during the year. This policy will be administered by the City's Occupational Health Service, Jasper County Health Department, which will select employees at random to receive the testing. An employee's refusal to take a random drug and/or alcohol test after being selected by the Occupational Health Service will be considered insubordination and will subject the employee to discipline up to and including termination.

I. **Positive Drug and/or Alcohol Test.** Testing positive for illegal drugs and/or alcohol is a violation of this policy upon receipt of results. An employee who tests positive for any illegal drug and/or alcohol will be immediately removed from duty upon receipt of results and will be given a referral to a Substance Abuse professional (SAP) for evaluation. The City may or may not be allowed to return to work at the sole discretion of the City depending upon the evaluation from S.A.P. Refusal by any employee to participate in the Substance Abuse Evaluation after testing positive for illegal drugs and/or alcohol may result in immediate termination. Any employee participating in a Substance Abuse Evaluation as the result of a positive drug and/or alcohol test will not be paid during his/her participation in the Substance Abuse Evaluation for hours not worked. Upon completion of Substance Abuse Evaluation, the employee will be retested and must have a negative drug and/or alcohol test, or will be subject to immediate termination. The test limit for a drug screen is 0. Any evidence of drugs on the test will not be tolerated. A blood alcohol level of .04 or greater is considered a positive test. A blood alcohol level of .02 to .039 is subject to disciplinary action up to and including termination. An employee with a blood alcohol level of .02 to .039 will not be allowed to perform his/her safety sensitive job for **twenty-four (24) hours.**

Refusal to cooperate in a required drug and/or alcohol test will be considered insubordination and will subject the individual to discipline, up to and including termination. Refusal to participate in the Substance Abuse Evaluation after a positive test may result in immediate termination.

J. **Employee Assistance Program.**

1. Confidential substance or alcohol abuse counseling is available to employees at the employee's expense who voluntarily seek assistance in overcoming a substance or alcohol abuse problem and will be required of employees who have confirmed positive drug and/or alcohol test results. Voluntary requests for assistance under the Employee Assistance Program should be directed to our Occupational Health Service.
2. An employee who tests positive for any illegal drug and/or alcohol will be referred to a treatment and rehabilitation program at the employee's expense. Participation in such a program will not prevent the City from imposing appropriate disciplinary action, up to and including discharge, for policy violations, such as, but not limited to, a positive drug and/or alcohol test after the employee has been involved in a serious accident. Refusal to participate in the Substance Abuse Evaluation may be grounds for immediate termination.
3. Further, an employee normally will not be disciplined solely because he/she is participating in substance abuse counseling. However, the City reserves the right to impose appropriate discipline, up to and including termination, on employees who are substance abuse counseling participants. For example, some, but not all, of the situations which may lead to termination include: the employee's failure to complete the

EMPLOYEE CODE ADDENDUM "A"

treatment/rehabilitation program, or a positive drug and/or alcohol test during or after the employee's participation in the treatment/ rehabilitation program.

4. Funding for substance abuse counseling for all employees and families, as well as significant others, will be at the employee's expense.
- K. **Confidentiality.** All testing will be confidential and records relating to the administration and results of testing will be disclosed only as required by applicable law and to management officials on a need-to-know basis.
- L. **Interpretation or Revision.** The City reserves the right to interpret, amend or rescind this policy. Any modification of the policy shall become effective the date of its issuance unless otherwise noted. Nothing herein is intended to or should be construed as a contractual offer or creating any contractual obligation on the part of the City.

(Ord. No. 98-12; 09-01-98)

CITY OF NEWTON

**DRUG AND ALCOHOL SCREENING POLICIES
STATEMENT OF NOTIFICATION**

This statement verifies that I have read and understand the terms and conditions of the City's Substance Abuse Policy. I have also had this explained to me and have been able to have any questions answered in regard to this policy.

Signature: _____

Date: _____

ADDENDUM "B"

CITY OF NEWTON, ILLINOIS

SEXUAL HARASSMENT POLICY AND COMPLAINT PROCEDURE

I. Statement of Policy.

It is the City's policy that it will not tolerate the sexual harassment of any employee by any other employee of this City. Sexual harassment is an unlawful employment practice in violation of Title VII of the federal Civil Rights Act of 1964 as well as the Illinois Human Rights Act. Sexual harassment subject the harasser to liability for any such unlawful conduct.

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or any other visual, verbal or physical conduct of a sexual nature when:

1. submission to the conduct is made either explicitly or implicitly a condition of the individual's employment;
2. submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee; or
3. the harassment has the purpose or effect of unreasonably interfering with the employee's work performance or creating an environment which is intimidating, hostile or offensive to the employee.

Each employee must exercise his or her own good judgment to avoid engaging in conduct that may be perceived by others as sexual harassment. The following are illustrations of actions that the City deems inappropriate and in violation of our policy:

1. A supervisor tells an employee or implies that he or she can earn a promotion or salary increase by providing any form of sexual favor to or dating the supervisor.
2. A supervisor downgrades an employee's performance rating because he or she turned down the supervisor's request for any sexual favor or date.
3. An employee gives unwelcome hugs, kisses, massages or makes other unwelcome physical contact with another employee.
4. An employee tells sexually offensive or degrading jokes or stories.
5. An employee uses sexually oriented profanity.
6. An employee makes offensive gestures of a sexual nature or repeatedly stares at another.
7. An employee makes unwelcome comments about the appearance or anatomy of another.
8. The work place contains pictures of naked or scantily clothed men or women, or sexually explicit pictures or text.
9. An employee interferes with another's movement by blocking or standing in an uncomfortably close proximity.
10. An employee repeatedly asks another for a date after being turned down in a manner that does not invite a further invitation.

II. Applicable Procedures.

The City takes allegations of sexual harassment very seriously. It will actively investigate all complaints.

A. **Bringing a Complaint.** Any employee of the City, or an employee of a City official, who believes that he or she has been the victim of sexual harassment may bring the matter to the attention of the City in one of the following ways:

1. Advising his or her supervisor; or
2. Advising the City Attorney, or the City Clerk in the event that the alleged harasser is the City's Attorney.

If a complaint involves someone in the employee's direct line of command, then the employee should go directly to the City's Attorney.

The complaint should be presented as promptly as possible after the alleged harassment occurs.

All complaints will be handled with the utmost discretion.

- B. **Resolution of a Complaint.** Promptly after a complaint is submitted, the City will undertake such investigation, corrective and preventative actions as are appropriate. In general, the procedure in resolving any complaints can (but will not necessarily) include any of the following items:
1. Private conferences between the employee making the complaint and an individual designated by the City to investigate such complaints. Important data to be provided by the complaining employee includes the following:
 - a. A description of the specific offensive conduct;
 - b. Identification of all person(s) who engaged in the conduct;
 - c. The location where the conduct occurred;
 - d. The time when the conduct occurred;
 - e. Whether there were any witnesses to the conduct;
 - f. Whether conduct of a similar nature has occurred on prior occasions;
 - g. Whether there are any documents which would support the complaining employee's allegations;
 - h. What impact the conduct had on the complaining employee.
 2. If, after this initial meeting between the complaining employee and the City representative, the employee decides to proceed further with the matter, then a written statement will be submitted to the City by the individual who conducted the initial interview with the employee. Cases involving sexual harassment are particularly sensitive and demand special attention to issues of confidentiality. Therefore, the information provided either informally or by the written statement will not be released to third parties, except as provided or required by law.
 3. After a written statement of complaint is submitted by the employee, the alleged offending employee will be contacted by a designated representative of the City. The alleged offending employee will be advised of the charges brought against him or her, and may be provided with a copy of the written statement of complaint made by the complaining employee. The alleged offending employee will have an opportunity to fully explain his or her side of the circumstances, and may also submit a written statement, if desired.
 4. After the alleged offending employee is interviewed, any witnesses identified by either the complaining employee or the alleged offending employee will be interviewed.
 5. Once this investigation is completed, the City will take such action as is appropriate based upon the information obtained in the investigation. In the event that the City finds merit in the charges made by the complaining employee, disciplinary action will be taken against the offending employee. This disciplinary action may, but need not necessarily, include:
 - a. Verbal or written reprimand;
 - b. Placing the offending employee on probation for a period of time to be identified;
 - c. Delay in pay increases or promotions;
 - d. Suspending the offending employee from work without pay;
 - e. Immediate termination.

Under no circumstances will there be any retaliation against any employee making a complaint of sexual harassment.

If you have any questions concerning the City's policies on this matter, please see the City Attorney. Further information may also be obtained from the Illinois Department of Human Rights, 312-814-6200, or the Equal Employment Opportunity Commission (EEOC), 312-353-2713.

Please acknowledge receipt and review of this policy by signing the attached acknowledgment and returning it to the City Clerk.

(Ord. No. 02-09; 06-18-02)

ACKNOWLEDGMENT

The undersigned hereby acknowledges that I have received, reviewed and understand the City Sexual Harassment Policy and Complaint Procedure and that I will abide by it during my employment with the City or my employment with a City elected official.

Signature: _____

Date: _____

CHAPTER 15 – FLOOD PLAIN CODE

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GENERALLY</i>	
	<i>Section 15-1-1 - Purpose</i>	<i>15-1</i>
	<i>Section 15-1-2 - Definitions</i>	<i>15-1</i>
	<i>Section 15-1-3 - Base Flood Elevation</i>	<i>15-3</i>
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CHAPTER 15

FLOOD PLAIN CODE

ARTICLE I – GENERALLY

15-1-1 **PURPOSE.** This Code is enacted pursuant to the police powers granted to this City by the Illinois Municipal Code (**65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2**) in order to accomplish the following purposes:

- (A) to prevent unwise developments from increasing flood or drainage hazards to others;
- (B) to protect new buildings and major improvements to buildings from flood damage;
- (C) to promote and protect health, safety, and general welfare of the citizens from the hazards of flooding;
- (D) to lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (E) to maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (F) to make federally subsidized flood insurance available; and
- (G) to recognize the environmental sensitivity of floodplains and to encourage their protection from inappropriate growth and development.

15-1-2 **DEFINITIONS.** For the purposes of this Code, the following definitions are adopted:

Administrator: The Mayor or some person appointed by him to execute this Code.

Base Flood: The flood having a **one percent (1%)** probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in **Section 15-1-3** of this Code.

Base Flood Elevation (BFE): The elevation in relation to mean sea level of the crest of the base flood.

Building: A structure that is principally above ground and is enclosed by walls and a roof including manufactured homes and prefabricated buildings. The term also includes recreational vehicles and travel trailers installed on a site for more than **one hundred eighty (180) days**.

[NOTE: The NFIP requires that references be made to “manufactured homes” rather than “mobile homes”.]

Development: Any man-made change to real estate including:

- (A) Construction, reconstruction, or placement of a building, or any addition to a building, exceeding **seventy (70) square feet** in floor area;
- (B) Substantial improvement of an existing building;
- (C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days**;
- (D) Installation of utilities, construction of roads, bridges, culverts or similar projects;
- (E) Construction or erection of levees, dams, walls, or fences;
- (F) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- (G) Storage of materials including the placement of gas and liquid storage tanks; and

(H) Channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

FEMA: Federal Emergency Management Agency.

[NOTE: FEMA regulations can be found at 44 CFR 59-79 effective October 1, 1986 (revised 10/01/90.)]

Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Fringe: That portion of the floodplain outside of the regulatory floodway.

Flood Insurance Rate Map: A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community.

Floodplain and Special Flood Hazard Area (SFHA): They are synonymous. Those lands within the jurisdiction of the City that are subject to inundation by the base flood. The floodplains of the City are generally identified as such on the Flood Insurance Rate Map of the City prepared by the Federal Emergency Management Agency and dated **September 24, 1984**. The floodplains of those parts of unincorporated **Jasper County** that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate map prepared for **Jasper County** by the Federal Emergency Management Agency and dated **July 27, 1979**.

Floodproofing: Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

Floodproofing Certificate: A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

Flood Protection Elevation (FPE): The elevation of the base flood plus **one (1) foot** of freeboard at any given location in the floodplain.

[ED. NOTE: NFIP Regulations require protection to or above the base flood elevation. One (1) foot of freeboard is recommended by IDOT/DWO. A municipality may use higher freeboard requirements if it desires.]

Floodway: That portion of the floodplain required to store and convey the base flood. The floodway for each of the floodplains of the City shall be according to the best data available from Federal, State, or other sources.

IDOT/DWR: Illinois Department of Transportation/Division of Water Resources.

Manufactured Home: A structure transportable in **one (1)** or more sections that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

NFIP: National Flood Insurance Program.

SFHA: See definition of floodplain.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds **fifty percent (50%)** of the market value of the structure either, (a) before the

improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.

Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

15-1-3 BASE FLOOD ELEVATION. This Code's protection standard is the base flood. The best available base flood elevation data are listed below. **Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the Federal Emergency Management Agency for approval.**

[See: NFIP Requirement: 44 CFR 60.3(b).]

(A) The base flood elevation for each of the floodplains delineated as an "A Zone" on the Flood Insurance Rate Map of the City shall be according to the best data available from Federal, State or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.

(B) The base flood elevation for the floodplains of those parts of unincorporated **Jasper County** that are within the extraterritorial jurisdiction of the City, or that may be annexed into the City, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of **Jasper County** prepared by the Federal Emergency Management Agency.

15-1-4 DUTIES OF THE BUILDING OFFICIAL. The Administrator shall be responsible for the general administration of this Code and ensure that all development activities within the floodplains under the jurisdiction of the City meet the requirements of this Code. Specifically, the Administrator shall:

(A) Process development permits in accordance with **Section 15-1-5**;

(B) Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of **Section 15-1-6**;

(C) Ensure that the building protection requirements for all buildings subject to **Section 15-1-7** are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;

[See: NFIP Requirements: 44 CFR 60.3(b)(5)(iii) and 59.22(a)(9)(iii).]

(D) Assure that all subdivisions and annexations meet the requirements of **Section 15-1-8**;

(E) If a variance is requested, ensure that the requirements of **Section 15-1-9** are met and maintain documentation of any variances granted;

(F) Inspect all development projects and take any and all actions outlined in **Section 15-1-11** as necessary to ensure compliance with this Code;

(G) Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;

(H) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(I) Cooperate with State and Federal floodplain management agencies to coordinate base flood data and to improve the administration of this Code; and

(J) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Code.

15-1-5 DEVELOPMENT PERMIT. No person, firm, corporation, or governmental body not exempted by state law, shall commence any development in the floodplain without first obtaining a development permit from the City. The Administrator shall not issue a development permit if the proposed development does not meet the requirements of this Code.

(A) **Application Documents.** The application for a development permit shall be accompanied by:

- (1) drawings of the site, drawn to scale showing property line dimensions;
- (2) existing grade elevations and all changes in grade resulting from excavation or filling;
- (3) the location and dimensions of all buildings and additions to buildings; and
- (4) the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of **Section 15-1-7** of this Code.

(B) **Elevation Comparisons.** Upon receipt of an application for a development permit, the Administrator shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to have been higher than the base flood elevation as of the date of the site's first Flood Insurance Rate map identification is not in the floodplain and therefore not subject to the requirements of this Code.

The documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

[ED. NOTE: Although survey data may show the development site to be entirely above the base flood elevation, a Letter of Map Amendment (LOMA) will still be required to remove the site from the mapped floodplain for insurance requirements.]

15-1-6 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES.

Within the City's floodplains, the following standards shall apply:

[NFIP Requirements: 44 CFR 60.3(a)(4)(1), 60.3(c)(10), and 60.3(d)(3).]

(A) Except as provided in **Section 15-1-6(B)**, no development shall be allowed which, acting in combination with existing and anticipated development will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

- (1) Barge fleeting facilities meeting the conditions of IDOT/DWR Statewide Permit No. 3;
- (2) Aerial utility crossings meeting the conditions of IDOT/DWR Statewide Permit No. 4;
- (3) Minor boat docks meeting the conditions of IDOT/DWR Statewide Permit No. 5;
- (4) Minor, non-obstructive activities meeting the conditions of IDOT/DWR Statewide Permit No. 6;
- (5) Outfall structures and drainage ditch outlets meeting the conditions of IDOT/DWR Statewide Permit No. 7;
- (6) Underground pipeline and utility crossings meeting the conditions of IDOT/DWR Statewide Permit No. 8;
- (7) Bank stabilization projects meeting the conditions of IDOT/DWR Statewide Permit No. 9;
- (8) Accessory structures and additions to existing residential buildings meeting the conditions of IDOT/DWR Statewide Permit No. 10;
- (9) Minor maintenance dredging activities meeting the conditions of IDOT/DWR Statewide Permit No. 11; and
- (10) Any development determined by IDOT/DWR to be located entirely within a flood fringe area.

- (B) Other development activities not listed in (A) may be permitted only if:
- (1) A permit has been issued for the work by IDOT/DWR (or written documentation is provided that an IDOT/DWR permit is not required); and
 - (2) Sufficient data has been provided to FEMA when necessary to approve a revision of the regulatory map and base flood elevation.

(See 615 ILCS 5/5 through 29A)

15-1-7 **PROTECTING BUILDINGS.**

(A) **Requirements.** In addition to the damage prevention requirements of **Section 15-1-6**, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

- (1) Construction or placement of a new building valued at more than **One Thousand Dollars (\$1,000.00)**;
- (2) Structural improvements made to an existing building;
- (3) Structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%)**;
- (4) Installing a manufactured home on a new site or a new manufactured home on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage); and
- (5) Installing a travel trailer on a site for more than **one hundred eighty (180) days**.

(B) **Alternative Methods.** Residential or non-residential buildings can meet the building protection requirements by one of the following methods:

[See NFIP Requirements: 44 CFR 60.3(c)(2).]

- (1) The building may be constructed on permanent land fill in accordance with the following:
 - (a) The lowest floor (including basement) shall be at or above the flood protection elevation;
 - (b) The fill shall be placed in layers no greater than **one (1) foot** before compaction and should extend at least **ten (10) feet** beyond the foundation before sloping below the flood protection elevation;
 - (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure;
 - (d) The fill shall be composed of rock or soil and not incorporated debris or refuse materials; and
 - (e) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties; or
- (2) The building may be elevated in accordance with the following:

[See: NFIP Requirements: 44 CFR 60.3(a)(3) and 60.3(c)(5).]

 - (a) The building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to flood waters;
 - (b) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
 - (c) If walls are used, all fully enclosed areas below the base flood elevation shall address hydrostatic pressures by having a minimum of **two (2)** permanent openings no more than **one (1) foot** above grade and providing a total net area of not less than **one (1) square inch** for every **one (1) square foot** of enclosed area subject to flooding below the base flood elevation;

- (d) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris;
- (e) all structural components below the flood protection elevation shall be constructed of materials resistant to flood damage;
- (f) water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed; and
- (g) No area below the flood protection elevation shall be used for storage of items or materials.

(C) **Manufactured homes or travel trailers** to be installed on site for more than **one hundred eighty (180) days** shall be:

- (1) elevated to or above the flood protection elevation; and
- (2) anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.

(D) **Non-Residential** buildings may be structurally floodproofed (in lieu of elevation) provided a registered professional engineer certifies that:

- (1) below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood;
- (2) the building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impact from debris and ice; and
- (3) floodproofing measures will be operable without human intervention and without an outside source of electricity.

Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

[See NFIP Requirements: 44 CFR 60.3(c)(4).]

15-1-8 SUBDIVISION AND OTHER DEVELOPMENT REQUIREMENTS. The City Council shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.

(A) **Data Required.** New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protection standards of **Sections 15-1-6** and **15-1-7** of this Code. Any proposal for such development shall include the following data:

- (1) The base flood elevation and the boundary of the floodplain (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);
- (2) The boundary of the floodway when applicable; and
- (3) A signed statement by a Registered Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (**765 ILCS 205/2**).

(B) **Health Standards.** Public health standards must be met for all floodplain development. In addition to the requirements of **Sections 15-1-6** and **15-1-7**, the following standards apply:

- (1) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a storage tank or

floodproofed building constructed according to the requirements of **Section 15-1-7** of this Code.

- (2) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings located below the flood protection elevation are watertight.

(C) All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

[ED. NOTE: This section sets minimum subdivision design review and recording standards when subdivisions are located within a floodplain. It also provides guidance for other activities defined as "development" which may occur in a floodplain. NFIP Requirement: 44 CFR 60.2(c).

NFIP Requirement: 44 CFR 60.3(b)(3) only applies to subdivisions greater than five (5) acres or fifty (50) lots.

All new plats recorded must show the location of any floodplains and must be signed, sealed, and certified by an Illinois Registered Land Surveyor as per the requirements of Public Act 85-267.]

15-1-9 **VARIANCES.** Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Appeals Board for a variance. The Appeals Board shall review the applicant's request for a variance and shall submit its recommendation to the City Council. The City Council may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(A) **Requirements for Variance.** No variance shall be granted unless the applicant demonstrates that:

- (1) The development activity cannot be located outside the floodplain;
- (2) An exceptional hardship would result if the variance were not granted;
- (3) The relief requested is the minimum necessary;
- (4) There will be no additional threat to public health or safety, or creation of a nuisance;
- (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;
- (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
- (7) All other required local, state and federal permits have been obtained.

[65 ILCS 5/11-13-4 and 5/11-13-5 established specific municipal zoning variance criteria.]

(B) **Notification of Applicant.** The Administrator shall notify an applicant in writing that a variance from the requirements of the building protection standards of **Section 15-1-7** would lessen the degree of protection to a building will:

- (1) Result in increased premium rates for flood insurance up to **Twenty-Five Dollars (\$25.00)** for **One Hundred Dollars (\$100.00)** of insurance coverage;
- (2) Increase the risks to life and property; and
- (3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

[NOTE: The Standard Flood Insurance Policy permits an insurance adjustor to not pay for damage that was caused by something the owner did which increased the hazard to the property. Section 1316 of the National Flood Insurance Act authorizes local officials to request denial of flood insurance for buildings in violation of local floodplain codes.]

(C) Variances to the building protection requirements of **Section 15-1-7** of this Code requested in connection with reconstruction, repair, or alteration of a site or building included in the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirements of **Section 15-1-9(A)(1-5)**.

[NOTE: Communities in the NFIP are required to maintain a record of all variance actions, including justification for their issuance, and report them to FEMA. FEMA may review variances and suspend a community from the NFIP if the review “indicates a pattern inconsistent with the objectives of sound floodplain management...”]

15-1-10 DISCLAIMER OF LIABILITY. The degree of protection by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur, or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the City or any officer or employee thereof for any flood damage that results from reliance on this Code, or any administrative decision made lawfully thereunder.

15-1-11 PENALTY. Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Code. Upon due investigation, the Administrator may determine that a violation of the minimum standards of this Code exists. The Administrator shall notify the owner in writing of such violation.

(A) If such owner fails after **ten (10) days'** notice, to correct the violation:

- (1) The City may make application to the Circuit Court for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with the Code.
- (2) Any person who violates this Code shall, upon conviction thereof, be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(B) The City Attorney shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(C) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

15-1-14 ABROGATION AND GREATER RESTRICTIONS. This Code repeals and replaces other ordinances adopted by the City Council to fulfill the requirements of the National Flood Insurance Program. However, this Code does not repeal the original ordinance adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Code and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. **[See: NFIP Requirement: 44 CFR 60.2(B).]**

(See 65 ILCS 5/1-2-1; 5/11-12-12; 5/11-30-2; 5/11-30-8 and 5/11-31-2)

CHAPTER 16 – FRANCHISES

<u>ARTICLE</u>		<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GAS UTILITY SYSTEM</i>		
	<i>Section 16-1-1</i>	- <i>Franchise Contract</i>	<i>16-1</i>
	<i>Exhibit "A"</i>	- <i>Gas Franchise Agreement</i>	<i>16-2</i>

CHAPTER 16

FRANCHISES

ARTICLE I – GAS UTILITY SYSTEM

16-1-1 **FRANCHISE CONTRACT.** The existing contract with Ameren Illinois Company d/b/a Ameren Illinois is attached hereto as Exhibit "A". (**Ord. No. 11-4; 05-17-11**)

EXHIBIT "A"

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE CITY OF NEWTON, COUNTY OF JASPER AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, COUNTY OF JASPER, AND THE STATE OF ILLINOIS, AS FOLLOWS:

Section 1. It is the intent of the parties by this Ordinance to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a gas utility system within the City as originally authorized by an Ordinance No. 334 approved on **July 18, 1961**. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the City for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

Section 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right, privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the City of Newton (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy or other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places as agreed upon by both parties.

Section 3. All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere with any pipes, conduits, sewers, drains, pavements or other public improvements existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys and public places of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or apparatus. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any street, avenue, or other public place shall be graded, curbed, paved or otherwise changed so as to make the resetting or relocation of any pipes or other equipment placed or installed under this Ordinance necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such pipes or other equipment, and the Company's obligation shall be limited to resetting or relocating pipes or other equipment of the same type and configuration as the displaced pipes or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location.

Section 4. When any street, avenue, alley, bridge, easement, right of way and/or other public place, upon which or in which any facilities of Company have been placed, shall be graded, curbed, paved or otherwise changed by the Municipality so as to make the resetting or reconstruction of such facilities necessary, Company shall make such necessary change in construction at no cost to Municipality. Should it become necessary or should the Company desire to use conduits or other similar fixtures, Company shall make application to the Municipality for the establishment of permanent grades and such conduits or other similar fixtures shall not be installed until such permanent grades have been established. The Municipality agrees to establish promptly such permanent grades upon such application.

Section 5. The rates to be charged by the Company for gas service rendered under this Ordinance shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Ordinance, in the event of conflict herewith, shall govern.

Section 6. As a further consideration for the rights, privileges and authorities granted by this Ordinance, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this Ordinance furnish to the said Municipality compensation in the amount of **Eight Thousand Fifty-Five Dollars (\$8,055.00)** payable annually, within **thirty (30) days** of the anniversary date. Municipality may request a revision to the compensation amount after **five (5) years** from the date of passage of this Ordinance if Municipality has a reasonable belief that its population has increased or decreased by **three percent (3%)** or more. Municipality must request the revision at least **sixty (60) days** prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by **three percent (3%)** or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional **five (5) year** periods throughout the term of this Ordinance.

Section 7. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

Section 8. This Ordinance shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within **ninety (90) days** after due notice to the Company of the enactment of this Ordinance, file with the City Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of **ninety (90) days**, all rights, privileges, and authority herein granted shall become null and void.

Section 9. All rights, privileges and authority given and granted by this Ordinance are granted for a term of **twenty (20) years** from and after the acceptance of this Ordinance as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Ordinance at least **six (6) months** prior to the expiration of the Initial Term or any Subsequent Term.

Section 10. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Ordinance. Neither acceptance of this Ordinance nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Ordinance. In addition, neither use by Company of public property or places as authorized by this Ordinance nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

Section 11. All ordinances and parts of ordinances in conflict with this Ordinance or with any of its provisions are, to the extent of such conflict, hereby repealed.

Section 12. This Ordinance shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous condition in any street avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

Section 13. If any provision of this Ordinance, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Ordinance, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 14. If, at any time, during the term of this contract, Municipality permits another entity or person to provide gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this ordinance to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

Section 15. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Ordinance, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

Section 16. This Ordinance shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the City Clerk according to the terms prescribed herein. This Ordinance shall be in full force from and after its passage, approval and **ten (10) day** period of publication in the manner provided by law.

(Ord. No. 11-4; 05-17-11)

CHAPTER 17 – GARBAGE REGULATIONS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>GENERALLY</i>	
	<i>Section 17-1-1 - Accept Waste</i>	<i>17-1</i>
	<i>Section 17-1-2 - Operation of Service</i>	<i>17-1</i>
	<i>Section 17-1-3 - Providing Services</i>	<i>17-1</i>
	<i>Section 17-1-4 - Service Rates</i>	<i>17-1</i>
	<i>Section 17-1-5 - Free Service to City</i>	<i>17-1</i>
	<i>Section 17-1-6 - Indemnification and Insurance</i>	<i>17-1</i>
	<i>Section 17-1-7 - Independent Contractor</i>	<i>17-2</i>
	<i>Section 17-1-8 - Franchise Subcontracted</i>	<i>17-2</i>
	<i>Section 17-1-9 - Traffic Coordination</i>	<i>17-2</i>
	<i>Section 17-1-10 - Failure to Provide Service</i>	<i>17-2</i>
	<i>Section 17-1-11 - Grant of Franchise</i>	<i>17-2</i>
	<i>Section 17-1-12 - License Required</i>	<i>17-2</i>
	<i>Section 17-1-13 - Failure to Perform</i>	<i>17-3</i>
	<i>Section 17-1-14 - Violation</i>	<i>17-3</i>
	<i>Section 17-1-15 - Precedence</i>	<i>17-3</i>
	<i>Section 17-1-16 - Penalties</i>	<i>17-3</i>
	<i>Schedule "A" - Residential Rate per Home</i>	<i>17-4</i>
	<i>Schedule "B" - Franchise for the Operation of a Sanitary Hauling Service</i>	<i>17-5</i>

CHAPTER 17

GARBAGE REGULATIONS

ARTICLE I – GENERALLY

17-1-1 **ACCEPT WASTE.** Grantee shall accept all non-hazardous general municipal waste created within the City and from all property within the City limits of the City. Grantee shall accept only such waste as is designated in operating permits issued by the IEPA. It is currently unlawful to accept yard waste at any landfill and whole tires are banned from landfills effective **January 1, 1994**. Automobiles, lead acid batteries, and large appliances are prohibited at landfills. The City will be notified when and if other waste items are banned from landfill disposal.

17-1-2 **OPERATON OF SERVICE.** Grantee shall operate the sanitary hauling service in compliance with all State, Federal, and local laws and regulations including the Illinois Refuse Disposal Law and other rules and regulations promulgated by the Illinois Environmental Protection Agency.

17-1-3 **PROVIDING SERVICES.** Grantee shall provide the following sanitary hauling services to the residents of the City, and from all property within the City limits of the City at rates not to exceed the following:

(A) **Residential.** Sanitary hauling service, one time per week, curbside collection, for a private dwelling or apartment – **Twelve Dollars Seventy-Five Cents (\$12.75)** per month. Additional charge may be made by Grantee for unusual items not normally considered to be household refuse. Republic Services will provide up to **two (2) ninety-six (96) gallon** waste carts on wheels with a lid for each private dwelling or apartment. Extra waste carts can be obtained at the expense of each residence/apartment for **Five Dollars (\$5.00)** per cart per month. In accordance with Schedule A, attached hereto and incorporated herein by this reference.

(B) **Non-Residential.** Grantee shall make collections for commercial and other non-residential customers at rates to be negotiated between Grantee and the customer based upon the volume, type and number of collections made, in accordance with Schedule B, attached hereto.

17-1-4 **SERVICE RATES.** The service rates for the sanitary hauling as provided herein shall be effective on **April 1, 2020**.

17-1-5 **FREE SERVICE TO CITY.** In consideration for the granting of this franchise from the City, Grantee agrees to provide the following sanitary hauling services to the City at no charge to the City while this franchise is in effect:

- (A) City Hall
- (B) Senior Citizens Center
- (C) Peterson Park
- (D) Water Plant
- (E) Grantee shall at no additional cost provide **one (1)** spring (last week of April) and **one (1)** fall (last week of October) clean up for residential curbside pickup of all large or small items not prohibited at landfills.

17-1-6 **INDEMNIFICATION AND INSURANCE.** Grantee shall indemnify and defend the City, its Boards, Council members, officers, agents, and employees, against any and all liabilities for injury to or death of any person or any damage to any property caused by Grantee, its officers, agents,

or employees in the construction, operation, or maintenance of its property or arising out of the exercise of any right or privilege under this franchise. Grantee shall carry the following insurance coverages:

(A) **Workmen's Compensation.** Grantee shall carry workmen's compensation and occupational disease insurance as required by the statutes of the State of Illinois.

(B) **Comprehensive Liability.** At all times during the term of the franchise, Grantee will, at his own expense, maintain in force general comprehensive liability insurance with a reputable insurance company licensed to do business in Illinois. The coverage represented by such policies shall be for the protection of the City, its boards, Council members, officers, agents and employees against liability for loss or damages for bodily injury, death, and property damage occasioned by the activities of Grantee under the franchise. Minimum liability limits under the policy or policies are to be **Five Hundred Thousand Dollars (\$500,000.00)** for personal injury or death of any one person and **One Million Dollars (\$1,000,000.00)** for personal injury or death of **two (2)** or more persons in any one occurrence and **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property resulting from any new occurrence.

The policies mentioned in the foregoing paragraphs shall each contain a provision that a written notice of any cancellation or reduction in coverage of the policies shall be delivered to the City **thirty (30) days** in advance of the effective date thereof. Grantee shall not perform any services for customers for any compensation other than the rates stated herein. Proof of such insurance shall be furnished annually by Grantee to the City Clerk by a certificate of insurance.

17-1-7 INDEPENDENT CONTRACTOR. Grantee shall operate the sanitary hauling service as an independent contractor rendering and performing the services required hereunder in a satisfactory and workmanlike manner. The City retains the right to forfeit the franchise granted herein for the failure or refusal of Grantee to comply with the terms and conditions of this franchise. The City shall not have the right to forfeit this franchise if the inability to provide the proper service required hereunder is due to an act of God, fire, explosion or civil disturbance.

17-1-8 FRANCHISE SUBCONTRACTED. This franchise shall not be assigned or subcontracted in whole or in part except to an entity judged capable of fulfilling the terms herein and approved in writing by the City. Such approval shall not be unreasonably withheld.

17-1-9 TRAFFIC COORDINATION. Grantee will endeavor to work with the Street Department to coordinate traffic.

17-1-10 FAILURE TO PROVIDE SERVICE. Grantee will be considered to be in default of this franchise if he fails to provide general service for any **two (2) week** period. Grantee has the right to terminate service to any customer for non-payment if customer is more than **ninety (90) days** in arrears. Grantee shall notify the customer and City Clerk of any terminated service for non-payment by customer.

17-1-11 GRANT OF FRANCHISE. This franchise is granted pursuant to the laws of the State of Illinois relating to the granting of such rights and privileges by a municipal corporation. If any article, section, sentence, clause or phrase of this Article is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the Article or any of the remaining portions. The invalidity of any portion of this Article shall not abate, reduce, or otherwise affect any consideration or other obligation required of Grantee.

17-1-12 LICENSE REQUIRED. Grantee shall have the non-exclusive license from the City to provide non-residential/commercial roll-off containers **twenty (20) cubic yards** capacity or

larger hauling service and may negotiate with individual customers as to the rates charged therefore. It is agreed between the parties that the City may issue permit(s) to other sanitary hauling services to provide non-residential/commercial roll-off containers having a capacity of **twenty (20) cubic yards** or larger service to individual customers located within the City.

17-1-13 **FAILURE TO PERFORM.** The failure of the City at any time to require performance by Grantee of any provisions hereof, shall in no way affect the right of the City hereafter to enforce same. Waiver of any breach of any of the provisions hereof by the City shall not be held to be a waiver of any succeeding breach.

17-1-14 **VIOLATION.** It shall be a violation of this Article for any person, firm, or corporation, other than Grantee herein, to operate a sanitary hauling service within the City.

17-1-15 **PRECEDENCE.** This Article shall take precedence over all prior ordinances which may be in conflict with it.

17-1-16 **PENALTIES.** Any person, firm, or corporation, other than Grantee herein, who violates any provisions of this Article shall, upon conviction thereof, be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each such offense. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

(Ord. No. 20-07; 05-19-20)

GARBAGE REGULATIONS SCHEDULE "A"

SCHEDULE "A"

RESIDENTIAL RATE PER HOME
(Monthly)

Year 1	Year 2	Year 3	Year 4	Year 5
\$12.75	\$13.13	\$13.53	\$13.93	\$14.35

Additional Carts				
\$5.00	\$5.15	\$5.30	\$5.46	\$5.63

GARBAGE REGULATIONS SCHEDULE "B"

SCHEDULE "B"

**FRANCHISE FOR THE OPERATION OF A
SANITARY HAULING SERVICE**

Commercial Pricing for Newton New Customers

	Toter	2 yard	4 yard	6 yard	8 yard
Monthly		\$38.96	\$57.03	\$77.88	\$97.33
EOW		\$41.74	\$59.81	\$80.65	\$100.12
1x/wk	\$16.14	\$48.69	\$66.76	\$87.60	\$107.05
2x/wk		\$97.34	\$133.46	\$175.17	\$214.07
3x/wk		\$145.97	\$200.17	\$262.71	\$314.61
4x/wk		\$194.61	\$267.23	\$350.26	\$428.09
5x/wk		\$243.26	\$333.59	\$437.81	\$535.10
Extra Pickup		\$48.69	\$55.64	\$62.59	\$89.06

The Grantee will provide 12 to 15 90-gallon toters for the Newton Strawberry Festival and the Jasper County Fall Festival at no charge. Grantee will also provide a yard waste dumpster as needed at the City's yard waste facility.

ACCEPTANCE OF FRANCHISE

The undersigned, Grantee, hereby accepts all of the terms and conditions of the above and foregoing franchise for the operation of a sanitary hauling service granted by the City of Newton effective for the period commencing on **April 1, 2020** and ending **March 31, 2025**. The undersigned, Grantee agrees that Grantee will be bound by, comply with, and carry out the terms and conditions of the franchise as set forth in the above and foregoing Chapter.

Dated this **12th day of June, 2020**.

REPUBLIC SERVICES

Authorized Signatory

GARBAGE

EXHIBIT "A"

AN ORDINANCE GRANTING A FRANCHISE FOR
OPERATION OF A SANITARY HAULING SERVICE WITHIN
CITY OF NEWTON, JASPER COUNTY, ILLINOIS

BE IT ORDAINED by the City Council of the City of Newton, Jasper County, Illinois as follows:

WHEREAS, it is in the best interests of the City of Newton to grant an exclusive franchise to Grantee for the operation of a sanitary hauling service within the corporate limits of the City of Newton, Illinois as such service is necessary for the proper maintenance of public health and welfare within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, JASPER COUNTY, ILLINOIS, that REPUBLIC SERVICES is hereby granted an exclusive franchise to supply waste containers of less than **twenty (20) cubic yards** capacity and to operate a sanitary hauling service for the City of Newton and for all property under the jurisdiction of the City of Newton upon the terms and conditions herein expressed. This franchise shall commence on **April 1, 2015**, and terminate on **March 31, 2020**.

1. Grantee shall accept all non-hazardous general municipal waste created within the City of Newton and from all property within the City limits of the City of Newton. Grantee shall accept only such waste as is designated in operating permits issued by the IEPA. It is currently unlawful to accept yard waste at any landfill and whole tires are banned from landfills effective **January 1, 1994**. Automobiles, lead acid batteries, and large appliances are prohibited at landfills. The City will be notified when and if other waste items are banned from landfill disposal.
2. Grantee shall operate the sanitary hauling service in compliance with all State, Federal, and local laws and regulations including the Illinois Refuse Disposal Law and other rules and regulations promulgated by the Illinois Environmental Protection Agency.
3. Grantee shall provide the following sanitary hauling services to the residents of the City of Newton, Illinois, and from all property within the City limits of the City of Newton, at rates not to exceed the following:
 - A. **Residential.** Sanitary hauling service, one time per week, curbside collection, for a private dwelling or apartment – **Nine Dollars Ten Cents (\$9.10)** per month. Additional charge may be made by Grantee for unusual items not normally considered to be household refuse. REPUBLIC SERVICES will provide up to **two (2) ninety-six (96) gallon** waste carts on wheels with a lid for each private dwelling or apartment. Extra waste carts can be obtained at the expense of each residence/apartment for **Five Dollars (\$5.00)** per cart per month.
 - B. **Non-Residential.** Grantee shall make collections for commercial and other non-residential customers at rates to be negotiated between Grantee and the customer based upon the volume type and number of collections made, in accordance with Schedule A, attached hereto.
4. The service rates for the sanitary hauling as provided herein shall be effective on **April 1, 2015**. The City of Newton and Grantee reserve the right to adjust the service rates set forth in this franchise in the following manner:

Beginning **April 1, 2016** and annually thereafter during the term of this franchise, residential rates and commercial rates may increase each year equivalent to the general increase in the Consumer Price Index (CPI). The rate may be adjusted by a multiple equal to **one hundred percent (100%)** of the change in CPI factor known as the transportation component of the revised CPI (Urban Wage Earners), over the previous **twelve (12) months**, up to a maximum of **three percent (3%)**.
5. In consideration for the granting of this franchise from the City of Newton, Grantee agrees to provide the following sanitary hauling services to the City of Newton at no charge to the City of Newton while this franchise is in effect:
 - A. City Hall
 - B. Senior Citizens Center
 - C. Peterson Park
 - D. Water Plant
 - E. Grantee shall at no additional cost provide **one (1)** spring (last week of April) and **one (1)** fall (last week of October) clean-up for residential curbside pickup of all large or small items not prohibit at landfills.

6. Grantee shall indemnify and defend the City, its Boards, Council members, officers, agents, and employees, against any and all liabilities for injury to or death of any person or any damage to any property caused by Grantee, its officers, agents, or employees in the construction, operation, or maintenance of its property or arising out of the exercise of any right or privilege under this franchise. Grantee shall carry the following insurance coverages:
- A. **Workmen's Compensation.** Grantee shall carry workmen's compensation and occupational disease insurance as required by the statutes of the State of Illinois.
 - B. **Comprehensive Liability.** At all times during the term of the franchise, Grantee will, at his own expense, maintain in force general comprehensive liability insurance with a reputable insurance company licensed to do business in Illinois. The coverage represented by such policies shall be for the protection of the City, its Boards, Council members, officers, agents and employees against liability for loss or damages for bodily injury, death, and property damage occasioned by the activities of Grantee under the franchise. Minimum liability limits under the policy or policies are to be **Five Hundred Thousand Dollars (\$500,000.00)** for personal injury or death of anyone person and **One Million Dollars (\$1,000,000.00)** for personal injury or death of two or more persons in any one occurrence and **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property resulting from any new occurrence.
The policies mentioned in the foregoing paragraphs shall each contain a provision that a written notice of any cancellation or reduction in coverage of the policies shall be delivered to the City **thirty (30) days** in advance of the effective date thereof. Grantee shall not perform any services for customers for any compensation other than the rates stated herein. Proof of such insurance shall be furnished annually by Grantee to the City Clerk by a certificate of insurance.
7. Grantee shall operate the sanitary hauling service as an independent contractor rendering and performing the services required hereunder in a satisfactory and workmanlike manner. The City of Newton retains the right to forfeit the franchise granted herein for the failure or refusal of Grantee to comply with the terms and conditions of this franchise. The City of Newton shall not have the right to forfeit this franchise if the inability to provide the proper service required hereunder is due to an act of God, fire, explosion or civil disturbance.
8. This franchise shall not be assigned or subcontracted in whole or in part except to an entity judged capable of fulfilling the terms herein and approved in writing by the City. Such approval shall not be unreasonably withheld.
9. Grantee will endeavor to work with the Street Department to coordinate traffic.
10. Grantee will be considered to be in default of this franchise if it fails to provide general service for any **two (2) week** period. Grantee has the right to terminate service to any customer for non-payment if customer is more than **ninety (90) days** in arrears. Grantee shall notify the customer and City Clerk of any terminated service for nonpayment by customer.
11. This franchise is granted pursuant to the laws of the State of Illinois relating to the granting of such rights and privileges by a municipal corporation. If any article, section, sentence, clause or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the ordinance or any of the remaining portions. The invalidity of any portion of this ordinance shall not abate, reduce, or otherwise affect any consideration or other obligation required of Grantee.
12. Grantee shall have the non-exclusive license from the City of Newton to provide non-residential/commercial roll-off containers **twenty (20) cubic yards** capacity or larger hauling service and may negotiate with individual customers as to the rates charged therefore. It is agreed between the parties that the City of Newton, Jasper County, Illinois, may issue permit(s) to other sanitary hauling services to provide non-residential/commercial roll-off containers having a capacity of **twenty (20) cubic yards** or larger service to individual customers located within the City of Newton, Jasper County, Illinois.
13. The failure of the City of Newton at any time to require performance by Grantee of any provisions hereof shall in no way affect the right of the City of Newton hereafter to enforce same. Waiver of any breach of any of the provisions hereof by the City of Newton shall not be held to be a waiver of any succeeding breach.
14. It shall be a violation of this ordinance for any person, firm, or corporation, other than Grantee herein, to operate a sanitary hauling service within the City of Newton.
15. This Ordinance shall take precedence over all prior ordinances which may be in conflict with it.
16. Any person, firm, or corporation, other than Grantee herein, who violates any provisions of this ordinance shall, upon conviction thereof, be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each such offense. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

GARBAGE EXHIBIT "A"

Upon roll call vote the following Alderperson voted yea: Scott Bloomberg, Rick Lindemann, Larry Brooks, Robert Reisner and Eric Blake.

Upon roll call vote the following Alderperson voted nay: None

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

Dated this 2nd day of June, 2015.

MARK BOLANDER, Mayor

ATTEST:

ROSETTA M. YORK, City Clerk

SCHEDULE "A"

**FRANCHISE FOR THE OPERATION OF A
SANITARY HAULING SERVICE**

Commercial Pricing for Newton New Customers

	Toter	2 yard	4 yard	6 yard	8 yard
Monthly		\$30.10	\$44.06	\$60.17	\$75.20
EOW		\$32.25	\$46.21	\$62.31	\$77.35
1x/wk	\$14.00	\$37.62	\$51.58	\$67.68	\$82.71
2x/wk		\$75.20	\$103.11	\$135.33	\$165.39
3x/wk		\$112.78	\$154.65	\$202.97	\$248.06
4x/wk		\$150.36	\$206.19	\$270.61	\$330.74
5x/wk		\$187.94	\$257.73	\$338.25	\$413.41
Extra Pickup		\$37.62	\$42.99	\$48.36	\$453.72

The Grantee will provide 12 to 15 90-gallon toters for the Newton Strawberry Festival and the Jasper County Fall Festival at no charge. Grantee will also provide a yard waste dumpster as needed at the City's yard waste facility.

ACCEPTANCE OF FRANCHISE

The undersigned, Grantee, hereby accepts all of the terms and conditions of the above and foregoing franchise for the operation of a sanitary hauling service granted by the City of Newton effective for the period commencing on April 1, 2015 and ending March 31, 2020. The undersigned, Grantee agrees that Grantee will be bound by, comply with, and carry out the terms and conditions of the franchise as set forth in the above and foregoing Ordinances.

Dated this 2nd day of June, 2015.

REPUBLIC SERVICES

Authorized Signatory

CHAPTER 18 – HEALTH REGULATIONS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>HAZARDOUS SUBSTANCE POLICY</i>	
	<i>Section 18-1-1 - Definitions</i>	<i>18-1</i>
	<i>Section 18-1-2 - Prohibited Acts</i>	<i>18-1</i>
	<i>Section 18-1-3 - Response Authority</i>	<i>18-1</i>
	<i>Section 18-1-4 - Liability for Costs</i>	<i>18-2</i>
	<i>Section 18-1-5 - Defenses</i>	<i>18-2</i>
	<i>Section 18-1-6 - Costs and Penalties</i>	<i>18-2</i>

CHAPTER 18

HEALTH REGULATIONS

ARTICLE I – HAZARDOUS SUBSTANCE POLICY

18-1-1 DEFINITIONS. The following terms are defined as follows:

"Costs" shall mean all expenses incurred by the City or any public agency assisting the City, as a result of any removal or remedial action.

"Facility" shall mean any building, structure, installation, equipment, pipe or pipeline, including, but not limited to, any pipe into a sewer or publicly owned treatment works, well, pond, lagoon, impoundment, ditch, landfill, storage container, tank, motor vehicle.

"Hazardous Materials" shall have that meaning set forth in **430 ILCS 55/3(f)**.

"Mutual Aid" shall mean any action taken by the City or any other public agency, pursuant to an Intergovernmental Agreement.

"Person" shall mean any individual, business, firm, partnership, corporation, association, trust, estate, joint venture, or other legal entity, or their legal representative, each of their assign.

"Release" shall mean any spill, leaking, pumping, pouring, emitting, escaping, emptying, discharging, injecting, leaching, dumping or disposing of 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.

"Remedial Action" shall have that meaning set forth in **430 ILCS 55/3(a)** and shall further mean any action consistent with permanent remedy taken instead 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 releases of hazardous materials so that they do not migrate to cause a substantial present or potential hazard to human health, property, or environment. The term includes, but is not limited to, such actions at the location of the release as storage, isolation, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released diversion, destruction, segregation of reactive wastes, repair or replacement of leaking containers collection of leachate and runoff, on-site treatment or incineration, provisions or alternate water supplies and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment.

"Removal" shall mean any 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 of an environment. The term includes, but is not limited to, security, fencing, provision of alternative water supplies and temporary evacuation of threatened individuals.

"City Unit" shall mean any one or more vehicle, dump truck, loader, backhoe or other piece of equipment of the City and/or one City employee.

"Response" shall have that meaning set forth in **430 ILCS 55/3(a)** and shall further mean any removal or medial action.

18-1-2 PROHIBITED ACTS. No person shall cause, threaten, or allow the release of hazardous materials into the environment unless such release is in accordance with an appropriate permit granted by the Illinois Environmental Protection Agency or other Illinois or federal agency having primary jurisdiction over the release and such release is in such place and manner as will not create a substantial present or potential hazard to human health, property or the environment.

18-1-3 RESPONSE AUTHORITY. The Chief of Police and any other Department Head of the City or their authorized representative(s) are authorized to respond to any release or threatened release of hazardous materials within the territory of the City affecting the public streets, water supply,

wells or sewage treatment works located or servicing the City or pursuant to any lawful Intergovernmental Agreement or which the City is a party. This authority includes, but is not limited to, remedial action or removal.

The Police Chief and the other City Department Heads shall have the authority to respond to any release or threatened release of hazardous materials as described above. Their primary responsibility shall be to respond to all releases and shall cooperate with the Wade Fire Protection District and the County of Jasper in connection with all such releases or threatened releases. The City shall have authority for those properly permitted discharges into the sanitary or storm sewer systems of the City, and they shall report any release or threat of release of hazardous materials to the Wade Fire Protection District and to all appropriate federal, state and local public health, safety and emergency agencies as required by applicable law.

The Police Chief and Department Heads during such time as response authority is vested in them, shall be authorized to utilize all necessary personnel and equipment and to take such remedial or removal action as may be necessary or appropriate to respond to the release or threatened release of hazardous material, in conjunction with the efforts of Wade Fire Protection District, the County of Jasper and any other governmental entity.

All responding personnel of the City shall cooperate with and operate under the direction of the Police Chief or other person then exercising response authority under this Chapter until such time as the person exercising such response authority has determined that the response is complete or responsibility for response is assumed by the proper federal or state public health, safety or emergency agency primary jurisdiction over the release or threatened release. The person exercising response authority under this Chapter shall coordinate and/or cooperate with other federal, state or local public health, safety or emergency agencies involved in response to the release or threatened release of hazardous materials.

18-1-4 **LIABILITY FOR COSTS.** Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in **Section 18-1-5**, hereinafter, the following persons shall be jointly and severally liable for all costs of removal or remedial action incurred by City as a result of a release or threatened release of hazardous material.

(A) Any person who, at the time of disposal, transport, storage or treatment of a hazardous material, owned or operated the facility or vessel used for such disposal, transport, treatment or storage from which there was a release or substantial threat or a release of any such hazardous material.

(B) Any person who by contract, agreement or otherwise has arranged with another person, party or entity for transport, storage, disposal or treatment of hazardous materials owned, controlled or possessed by such person at a facility owned or operated by another person, party or entity from which facility there is a release or substantial threat of release of such hazardous materials.

(C) Any person who accepts or accepted any hazardous material for transport, disposal, storage or treatment facility from which there is a release or a substantial threat of release of such hazardous materials.

18-1-5 **DEFENSES.** There shall be no liability under **Section 18-1-4** hereof for a person who can establish by a preponderance of the evidence that the release or substantial threat of release of a hazardous material and the damages resulting in accordance with any of the permitted defenses enumerated in **415 IL:CS 5/22.2**.

18-1-6 **COSTS AND PENALTIES.** Any person who is responsible for or liable for any remedial action, removal, release or threatened releases of hazardous materials shall reimburse the City in accordance with **430 ILCS 55/5** for all costs and charges incurred in connection with any such remedial action, removal, release or threatened release of hazardous material emergency action for removal or remedial action with **thirty (30) days** after such action is rendered by the City or any other agency rendering mutual aid. Minimum charges for such remedial action, removal, release or threatened release of hazardous material shall be as follows:

(A) **Five Hundred Dollars (\$500.00)** per hour per each "City Unit" responding.

(B) The cost of all materials and equipment used, expended, depleted, destroyed or removed from service in accordance with federal, state or local law, regulations or ordinance as a result of the remedial action, removal, release or threatened release of hazardous material, or any mitigation or containment operations.

Any person who is liable for the release or threatened release of a hazardous material who fails without sufficient cause to pay for or provide removal or remedial action upon or in accordance with a notice and request of the City or in accordance with any order of any court having jurisdiction on the matter, shall be liable to the City for any costs incurred by City as a result of such failure to provide or take such removal or remedial action, together with the costs of any removal or remedial action taken by the City in accordance with this Chapter, and all attorney's fees and related legal costs incurred in connection therewith.

(Ord. No. 06-03; 04-04-06)

CHAPTER 19 – LABOR CONTRACTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
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CHAPTER 19

LABOR CONTRACTS

ARTICLE I – LABORER’S INTERNATIONAL UNION CONTRACT

19-1-1 **LABORER’S INTERNATIONAL UNION.** The collective bargaining agreement between the City and the Laborer’s International Union of North America, the Southern and Central Illinois Laborer’s District Council and Laborers’ Local 1197 is hereby included by reference in **Exhibit “A”**. (June, 2022)

EXHIBIT "A"

**COLLECTIVE BARGAINING AGREEMENT
BETWEEN
THE CITY OF NEWTON, ILLINOIS
AND
THE LABORERS' INTERNATIONAL UNION OF NORTH
AMERICA, THE SOUTHERN AND CENTRAL
ILLINOIS LABORERS' DISTRICT COUNCIL, AND
LABORER'S LOCAL 1197**

MAY 1, 2022 THROUGH APRIL 30, 2026

AGREEMENT

The City of Newton, Illinois (hereafter referred to as the "Employer") and the Laborers' International Union of North America, the Southern and Central Illinois Laborers' District Council and Laborers' Local 1197, (hereinafter referred to as the "Union"), acting pursuant to the law as the exclusive bargaining agency for the employees covered by this Agreement.

PREAMBLE

It is the intention of this Agreement to establish and preserve harmonious relations between the City and its employees for the mutual benefit of both.

The City and the Union agree that the fullest cooperation between the Union and the City and its employees is necessary in order that the City may secure and sustain maximum productivity by each employee during the term of this Agreement. The Union is in accord with the objective of achieving the highest level of employee performance and efficiency consistent with safety, good health and sustained effort.

The Union, and the City and the employees all recognize that prompt and effective service to the customers in a courteous manner is essential to the continued success of the City and that true job security can only be found in the City's continued ability to satisfy its customers' demands.

ARTICLE 1 - RECOGNITION

Section 1. The Employer hereby recognizes the Union as the exclusive bargaining agent for the purposes of collective bargaining in any and all matters relating to wages, hours, and all other terms and conditions of employment of all members in the bargaining unit.

Included:

All non-professional employees who work more than 1,000 hours per year, including office clericals employed by the City of Newton in the following departments: Treasurer, City Clerk, Water Plant, Water Distribution, Sewer, Parks/Cemetery, Electric and Street.

Excluded:

All other employees including specifically Treasurer Department Head, City Clerk Department Head, Water Plant Department Head, Water Distribution Department Head, Sewer Department Head, Parks/Cemetery Department Head, Electric Department Head, Street Department Head, all employees of the Police Department, swimming pool, City Collector and all confidential, managerial and professional employees and supervisors as defined by the Illinois Public Labor Relations Act.

Section 2. Nothing in this Agreement shall prevent the temporary transfer of bargaining unit employees to non-bargaining unit work or to work in any lower-rated classification to promote efficiency, facilitate training or fill up their time. There will be no reduction in pay during such transfer.

Section 3. Nothing in this Agreement shall limit the right of the City to employ part-time, seasonal or temporary employees including employees from temporary labor services.

ARTICLE 2 – NON-DISCRIMINATION

Section 1. Neither the Employer nor the Union shall discriminate against any Employee on the basis of race, color, creed, national origin, sex, age, religion, mental or physical disabilities, marital status, or Union activities or non-Union activities.

Section 2. It is understood that wherever in this Agreement employees or jobs are referred to in the masculine gender, it shall be recognized as referring to both male and female.

ARTICLE 3 – NO STRIKE OR LOCKOUTS

Section 1. Neither the Union nor any officers, agents or employees will instigate, promote, sponsor, engage in, or condone any strike, sympathy strike, secondary boycott, residential picketing, slow down, sit down, concerted stoppage of work, concerted refusal to perform overtime, or any other intentional interruption or disruption of the operation of any kind of the Employer at any locations, regardless of the reason for doing so. Any or all employees who violate any of the provisions of this Article may be discharged. The failure to confer a penalty in any instance is not a waiver of such right in any other instance nor is it a precedent. The Union and its employees and representatives will cooperate with the Employer in taking whatever affirmative action is necessary to direct and urge any employee who violates this Article to return to work and to achieve a prompt resumption of normal operations.

Section 2. The Employer agrees that during the term of this Agreement it will not cause or call any lockout of its employees.

ARTICLE 4 – MANAGEMENT RIGHTS

Section 1. Except as expressly limited by a specific provision of this Agreement the City retains and shall continue to have the sole and exclusive right to manage its business and direct the working forces, including, but not limited to, the right to plan, direct and control operations, the right to hire and to suspend, discipline, demote, or discharge for just cause, the right to maintain order and efficiency, transfer or promote, or to relieve employees from active duty because of lack of work or other legitimate reasons, the right to study, determine and regulate the methods quantity and quality of work, and the sources and kinds of merchandise, materials, parts facilities and equipment used, handled or sold, the right to schedule and reschedule work hours, work shifts, shift hours and overtime requirements and the assignments thereto, the right to select customers, the right to extend, limit or curtail operations or any part thereof when and in such manner as it deems advisable to do so, the right to establish, modify, publish and enforce reasonable rules and regulations for discipline, dress, safety and any other business, related concerns, the right to close, sell, liquidate or move, relocate or transfer the business in its entirety or any part thereof, the right to expand, reduce, alter, combine, move, transfer, relocate or terminate any job, job content, department, operation or service, and to subcontract any work, maintenance or otherwise, and the right to determine the number, location and operation of its warehouses and facilities as well as the right to make decisions to do any of the foregoing.

Provided, further, that any of the rights the City had prior to the execution of the Agreement are retained exclusively by the City, except as may be limited by the terms and provisions of this Agreement.

Section 2. This article, and any other provision in this Agreement relating to the management rights, are solely intended to supplement the rights of the City set forth in the Illinois Compiled Statutes (ICS). This does not constitute bargaining about any of the rights protected by the ICS and is not a waiver of the City's right to refuse to bargain about any and all of the rights contained in that section.

Section 3. Due to the nature of the City's business, supervisors employed by the City may perform work that is normally performed by employees covered by this Agreement. No employee will be laid off or sent home so that a supervisor can perform their work.

Section 4. This Agreement contains the parties' full and complete understanding, and any prior practices, benefits and oral agreements are superseded by the terms of this Agreement. No oral understandings, past practices or benefits will be recognized or regarded as bonding unless committed to writing and signed by the parties as a supplement to this Agreement. The City may, in its discretion, discontinue or modify the provision of any benefits or privileges not specifically required under this Agreement without further bargaining, discussions or consultations with the Union, at any time during the term of this Agreement without such further bargaining, discussions or consultation.

Section 5. All employees will be subject to the provisions of the then-current City's Employee Code except in those instances where a specific provision of the Employee Code is in conflict with the specific term(s) of this Agreement.

ARTICLE 5 – SENIORITY

Section 1. The term seniority as used in this Agreement shall mean:

- (A) Length of continuous service.
- (B) Skill and ability to perform the job.

When the City determines that two employees have relatively equal skill and ability to perform the job, length of continuous service will govern. Such decision of the City will be reviewable under the provision of Article 7.

Section 2. Probationary Employment. During their first six (6) months of continuous service with the City, employees shall be considered to be probationary employees and such employees may be discharged or disciplined at the discretion of the City for any reason without recourse by the Union or the Employee. After completion of such probationary period, the seniority date of such employees shall be deemed to commence from the date upon which they entered the service of the City. Probationary employees will be eligible for health insurance pursuant to the provisions of the plan and to all other benefits. Employment through a temporary employment service shall not be considered to be employment by or service with the City for any purpose under this Agreement.

Section 3. Seniority List. A list of employees in the bargaining unit with their date of hire shall be posted on the bulletin board with a copy sent to the Union. The City will furnish to the Union and shop steward annually, on the anniversary date of this Agreement, a revised seniority list.

Section 4. Layoff and Recall. If the City determines that it is necessary to lay off employees, regular, full-time employees will be given preference in accordance with their seniority subject to their relatively equal skill and ability to perform the work without additional training. Only when skill and ability are relatively equal in the opinion of the City and the senior employee is immediately capable of efficiently performing the work expected to be available shall seniority govern. Part-time, seasonal employees from temporary employment services and probationary

employees shall be paid off before applying the seniority policy herein provided; provided, however, that if employees on layoff have been called and are not available or have not yet reported for work, probationary employees will be the first of these types of employees to be used.

When an employee who would otherwise be laid off has greater seniority as well as relatively equal skill and ability as an employee in any classification and that senior employee is immediately capable of efficiently performing the work expected to be available in such classification, then such employee shall be offered the opportunity to replace the lower seniority employee in such classification and perform his work at the rate for such job classification. There shall be no upgrading in a layoff or recall. Employees shall be recalled in accordance with their seniority subject to their relatively equal skill and ability to perform the work without additional training.

Section 5. Termination of Seniority. Seniority shall be lost, and the employment relationship and continuous service of an employee shall be considered terminated and subsequent reemployment shall be deemed new employment in the following events:

- (A) voluntary quit or retirement;
- (B) discharge for cause;
- (C) absence in excess of a leave of absence;
- (D) in the event of an anticipated absence from work failure to notify the City of the cause in advance, or, if unanticipated, as promptly as practicable (and, unless good cause for delay is shown to the satisfaction of the City, in no event later than two (2) days from the commencement of such absence);
- (E) failure to return to work from a definite layoff, or in the case of an indefinite layoff, failure to return to work within five (5) work days following the receipt of a telegram or of notice to return to work sent by registered or certified mail to the employee's last known address or following the date of telephone notice to him provided such telephone notice is promptly confirmed by mail. It shall be the sole responsibility of an employee to keep the City advised as to his current address and telephone number provided that if he should fail to do so, then the five (5) work days shall be deemed to have commenced from the sending of the telegram or registered or certified mail or from the date of attempted telephone notice to him (with advice to the steward);
- (F) working for another employer during a leave of absence without specific written permission from the City in advance;
- (G) not performing any work for the City for any reason for a period of nine (9) months.

ARTICLE 6 – HOURS OF WORK

Section 1. The normal work week for regular full-time employees shall consist of forty (40) hours; provided that this shall not be construed as a guarantee of any work or earnings per day or per week. Employees will receive at least one (1) weeks' notice of a permanent shift change. The City will not make such changes for the purpose of avoiding overtime. Employees may be scheduled for staggered starting times. Employees will be given as much notice of changes in their regular starting time as is reasonably practicable under the circumstances, except in unusual circumstances not less than one (1) week.

- (A) Normal hours of work are defined as:

Street, Park, Water, Electrical and Waste Water Departments:
7:00 a.m. – 4:00 p.m. (with 1-hour unpaid lunch)

Secretarial Department:

8:00 a.m. – 5:00 p.m. (with 1-hour unpaid lunch)

(FOR OVERTIME SEE ARTICLE 6, SECTION 2 AND SECTION 5)

Upon request from the Department Head and approval from the Committee Chairman, during the months of May, June, July, August and September the start time may be moved back one hour or more due to the extreme heat during this time of year, the end of the shift will be adjusted to equal an eight hour day, with breaks and lunch periods as outlined above. Normal hours of work changes shall be scheduled in no less than one (1) week intervals.

Section 2. All hours worked in excess of forty (40) hours per week shall be considered overtime and shall be paid for at the rate of time and one-half (1 ½) the employee's regular, basic straight-time rate. All paid time off shall count as time worked for the purpose of overtime computation.

Section 3. Lunch Periods. There shall be an unpaid lunch period of sixty (60) minutes each day, where lunch is included within the eight (8) hour day.

Section 4. Rest Breaks. There shall be a paid rest break of fifteen (15) minutes in the first four (4) hours and in the second four (4) hours whenever employees are scheduled to be employed for eight (8) or more hours during the morning or the afternoon. The fifteen (15) minute break time include any and all travel time.

Section 5. Overtime. Overtime may be required when, in the City's judgment it is necessary. Daily overtime assignments required to finish work assigned for that day may be performed by the employee(s) assigned such work during the regular shift time. Overtime assignments on jobs commencing after regular work hours, Saturdays, Sundays or Holidays shall be rotated as equally as feasible over a reasonable period of time among the employees who are immediately qualified to perform such work within the job classification.

Employees may elect to receive compensatory time for overtime hours earned up to a maximum of forty (40) hours in a calendar year. The said maximum forty (40) hours compensatory time may be carried over into subsequent calendar years. At no time shall an employee be able to accumulate more than forty (40) hours in any year.

Section 5. Moonlighting. No employee in the bargaining unit shall work on any other job for any other employer, including himself, if such work interferes with his performance of the City's work. Violation of this provision may subject such employee to discipline, up to and including discharge, due to interference with his performance of the City's work.

Section 7. If the City elects to utilize a time clock, employees will be required to use it and will be subject to discharge for dishonesty connected to timecard and/or time clock violations.

Section 8. Tardiness. Employees are expected to be present and ready to start work at the appointed starting time. Excessive tardiness may be cause for disciplinary action. **(FOR HOURS OF WORK SEE ARTICLE 6, SECTION 1 AND Section "a")** There shall be a five (5) minute grace period in which the employee shall not be docked in pay. (Example: starting time is 7:00 a.m. doesn't arrive until 7:05 a.m. resulting in no dock of pay.)

If an employee arrives six (6) minutes late they are considered late and shall be docked for fifteen (15) minutes of pay. (Example: start time is 7:00 a.m. doesn't arrive until between 7:06 a.m. and 7:15 a.m. the employee shall be docked fifteen (15) minutes of pay. If the employee doesn't arrive until between 7:16 a.m. and 7:30 a.m. they shall be docked thirty (30) minutes of pay, etc.)

ARTICLE 7 - GRIEVANCE PROCEDURE

Section 1. A grievance is defined as any dispute which reasonably concerns the application, interpretation or violation of any express or specified provision of this Agreement.

The Union agrees to present and appeal any grievance within the time limits set out in the respective steps of the grievance procedure, unless a mutual extension of time limits is agreed to.

The Employer agrees that it will meet an employee and union representative and subsequently respond within the time limit set out in the respected steps of the grievance procedure.

Grievances which affect all or a large group of employees, or which have general application, may be presented directly for handling at Step 2.

Any grievance arising over the application or interpretation of the provisions of this Agreement shall be settled as soon as possible in the following manner:

Step 1. An employee having a grievance shall present it to his/her Department Head within three (3) days of knowledge of the occurrence of the incident.

Step 2. If satisfactory settlement is not reached in twenty-four (24) hours, the grievant may reduce the grievance to writing and present it to the Chairman of the applicable committee within four (4) working days of the occurrence of the incident.

Step 3. The grievance may be processed further by notifying the City Council, within seven (7) working days of the decision of the Chairman of the applicable committee, of the Union's desire to discuss the matter further with the City Council. The Business Representative of the Union and the City Council then shall meet and attempt to resolve the dispute.

Step 4. Either party shall have the right to submit the grievance to arbitration. Notification in writing of a desire to submit a grievance to arbitration must be given within fifteen (15) working days after completing Step 3.

Section 2. Nothing contained herein shall be construed to circumvent the right of an employee to take a grievance up with the Employer and have the same settled without the intervention of the Union; provided settlement is not inconsistent with any of the provisions of this Agreement, and further provided the Union has been given the opportunity to have a representative present at the time of the settlement.

ARTICLE 8 – ARBITRATION PROCEDURE

Section 1. If the grievance or matter in dispute is not settled under the grievance procedure as set forth above, the aggrieved party may refer the matter to arbitration by serving notice on the other party of the desire to arbitrate the dispute within thirty (30) days from the date the matter was handled in the final step of the grievance procedure.

Section 2. If the Employer and the Union agree on a single arbitrator, the grievance shall be presented to the arbitrator for final determination. Should the Employer and the Union fail to agree on a single arbitrator, they shall immediately request that the Federal Mediation and Conciliation Service submit a panel of seven (7) arbitrators. Either party may reject one (1) name from the list, and one (1) remaining name shall be the arbitrator. The expense of the arbitrator shall be shared equally by the parties. Either party may order the proceeding to be recorded or transcribed, but whichever party does so, shall bear the cost of such record or transcription unless the other party desires a copy, in which case the cost of the record is ordered and borne equally by the parties. Where the record is ordered and paid for by only one (1) party, a copy thereof will not be made available to the other party. Any such record shall become the official record of the proceedings.

Section 3. The Arbitrator shall not have the power to add to, subtract from, or modify in any way the terms of this Agreement or to substitute her or his discretion for that of the City in matters of discipline and its penalties (including discharge), or otherwise, or except in the case of bad faith, arbitrary, discriminatory or capricious conduct, to substitute her or his judgment for that of the City on any question of employee competency, skill or ability, or to require a burden of proof on any issue greater than a preponderance of the evidence. The Arbitrator shall have no power to establish new jobs, to change existing wage rates, to set work methods or standards, to waive the time limits of this grievance and arbitration procedure. The Arbitrator shall be limited in jurisdiction to the application and interpretation of the specific provisions of this Agreement. Each party shall bear one-half (1/2) the fee of the Arbitrator and any other expenses jointly incurred incident to the arbitration hearing. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expenses of witnesses called by the other party.

Section 4. If either party, after due notice thereof, should fail to appear or present its case of defense in an arbitration hearing, the arbitrator is authorized to hear and decide the case on the basis of the evidence presented.

ARTICLE 9 - MISCELLANEOUS

Section 1. Health and Safety. The City will provide a safe and healthy workplace. The City will comply with all State and Federal rules, regulations, and laws. The employees shall be required to comply with all rules, regulations or policies required by law or the City to ensure safety and healthful conditions at the workplace. The City may also prohibit all smoking in any of its facilities, vehicles, or job sites.

Section 2. Voting Time. The City shall observe the provisions of Illinois law with respect to voting time. The City may require proof of voting. Any person who absents himself for the purpose of voting and who does not actually attempt to vote in the election shall be subject to discharge.

Section 3. Bulletin Board. The City agrees to furnish bulletin board space and the Union Representative or shop steward shall have the right to post notices of social gatherings or Union notices which do not impugn management or pertain to the strike or boycott of other employers on the warehouse bulletin board furnished by the City.

Section 4. Union Access. After first checking in with the City Management, and obtaining the City's permission, an authorized representative of the Union shall have access to the City's facility when necessary and with as little interruption of the work as possible during regular working hours for the purpose of conferring with the shop steward, City officials and officers of the Union, if any, employed by the City.

Section 5. Blood Donations. An employee will be allowed to use sick time off with pay to donate blood at any Blood Drive within the City limits of Newton.

Section 6. Stewards. The Business Manager shall appoint stewards from among bargaining unit employees, who shall assist an employee in presenting a grievance to the employee's department head. The stewards shall be the recognized representative of the Union and shall be subject to the same terms and conditions of employment as any other employee. Stewards will not investigate or process grievances during working time except to meet with supervisors at mutually agreed times.

After first obtaining written approval from appropriate supervision, up to two (2) stewards, appointed by the local union to represent the local union at local, district, state or international union conferences may be approved to take up to three (3) day per year of unpaid leave to

attend such conferences or meetings. The employees may put to use any accrued leave for such days also.

Section 7. Credit Union. The City agrees to deduct amounts from employees' pay checks who voluntarily choose to participate in the LIFE Credit Union. All amounts deducted shall be remitted within fifteen (15) days to the credit union. Employees who participate agree to do so for at least one (1) year in the same dollar amount.

Section 8. Laborers' Political League. The City agrees to deduct from employees' paychecks that voluntarily choose to contribute to the Laborers' Political League. All amounts deducted shall be remitted within fifteen (15) days to the Laborers' Political League. Employees who participate agree to do so for at least one (1) year in the same dollar amount.

Section 9. Evaluations. The City will evaluate the job performance of all employees covered hereunder on an annual basis.

Section 10. When a position within the City becomes available current employees shall be eligible to apply for that position prior to the City advertising outside of the current employees and departments. A notice of the opening and job requirements shall be posted for ten (10) working days. Any eligible employee shall have to submit an intent to apply to City Hall within that ten (10) day period.

ARTICLE 10 - DISCIPLINE AND DISCHARGE

The Union recognized the City's right to discharge, suspend, demote or otherwise discipline an employee for just cause. Except in case of aggravated misconduct, no employee shall be discharged without at least first being given one (1) prior written warning and the City will follow the tenets of progressive discipline when appropriate. The employee shall be notified in writing of disciplinary action imposed, be advised of the specific nature of the offense and be given direction as to future behavior. Warning notices which do not expire by their terms shall be given weight as is reasonable under all the circumstances. Disciplinary action by the Employer as provided for in this Article shall be subject to the provision of Article 7, Grievance Procedure.

Prior to actual imposition of any discipline, above oral reprimand, the employee should be afforded an opportunity to discuss his views concerning the conduct causing such disciplinary action. Such discussion should take place as soon as practicable and not be unduly or unreasonably delayed, and the employee should be informed clearly and concisely of the basis for such action. Furthermore, the City will advise the employee that he has the right to Union representation during any such discussion. Once the employee has requested Union representation, the City will not proceed with the discussion until the Union representative is present and has had the opportunity to meet with the employee.

ARTICLE 11 - DRUG AND ALCOHOL TESTING

The City may require drug and alcohol testing of all applicants and of employees upon a random basis, reasonable suspicion or after accidents when employee negligence, lack of good judgment, or lack of coordination or proper reactions are reasonably suspected. Such testing will be conducted by a reputable, certified testing laboratory and, except as otherwise mutually agreed by the City and the Union, shall apply the standards for a positive test recommended by the National Institute of Drug Abuse. Any employee who refuses to consent to or to take such test, or who attempts to circumvent or frustrate the test results, shall be subject to immediate discharge. An employee who tests positive and refuses to seek treatment will be subject to immediate discharge without recourse to the grievance procedure. Employees who seek and complete a treatment program approved by the City will be reinstated without back pay and place on a last change agreement which terms shall include five (5) years of unscheduled

testing. The employee will be responsible for all costs associated with the treatment program that are not covered by the City's then current insurance program.

ARTICLE 12 - LEAVES OF ABSENCE

Section 1. Any employee may be granted a medical leave of absence from his employment for reasons satisfactory to the City pursuant to the provisions of the City's Employee Code.

Section 2. Regular employees who leave the service of the City to enter the United States Armed Forces, the U.S. Maritime Commission, the National Guard, or for other selective or compulsory civilian service shall, upon their return, be granted such rights as are provided under applicable federal and state law.

ARTICLE 13 - PAID JURY LEAVE

When regular, full-time employees are required to perform jury service, they shall immediately notify their supervisor upon receipt of notice of call to such service. Employees whose jury duty does not require them to be absent an entire day shall immediately report their availability for work that day to their supervisor. Employees will receive their normal pay for the day, but the employee must submit their pay for jury service to the City whenever they receive it. The employee may retain any payment for mileage. Whenever considered necessary by the City because of operational needs, an employee shall cooperate with the City in requesting a postponement of jury service.

ARTICLE 14 - FUNERAL LEAVE

Section 1. An employee may use up to five (5) days with pay following the date of death in the Employee's immediate family which shall be interpreted to include: the employee's spouse, children (including stepchildren and foster children), parents (including stepmother and step-father). An employee may use up to three (3) days with pay following the death of an employee's grandchildren, grandparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, siblings and the same relatives of the employee's spouse. Employees may use one (1) day with pay for bereavement leave in the event of a death of an aunt, uncle, first cousin, or great grandparent. If not on the Funeral Leave list no time off with pay shall be granted. However, time off without pay may be granted to attend other deaths of family members upon approval from the Department Head and/or Committee Chairman.

If an employee requires additional time off due to the death of a family member, they may request such time as unpaid days with approval from the Department Head and/or Committee Chairman. The Department Head and Committee Chairman may at their discretion grant the use of any paid time off the employee may be eligible for.

Section 2. The employee shall notify the City giving as much notice as possible of the hours of necessary absence. Proof of death, relationship, and attendance at the funeral may be required by the City.

Section 3. Funeral leave pay shall not be due when the employee is on layoff or nonpaid leave. Employees who are on vacation or holiday status on a day where they are also eligible for funeral leave will receive additional vacation/holiday(s) for the day(s) in issue.

ARTICLE 15 - HOLIDAYS

Section 1. Each regular, full-time employee, irrespective of what day of the week on which the holiday may fall, shall receive eight (8) hours of pay at his or her regular basic straight-time hourly rate of pay for each such holiday, provided, however, that such employee shall have worked all hours required on the last scheduled work day before and on the first scheduled work day after the holiday or holidays (in the case of two holidays on successive days) or the day or days celebrated by the City as such. The holidays shall be:

- | | |
|----------------------------|------------------------|
| New Year’s Day | Veteran’s Day |
| Good Friday | Thanksgiving Day |
| Memorial Day | Day after Thanksgiving |
| Independence Day | Christmas Eve Day |
| Labor Day | Christmas Day |
| Half Day on New Year’s Eve | |

Section 2. Eligible employees who have been scheduled to work on a holiday and fail to do so shall not receive pay for the holiday. An employee absent or not receiving pay for that day for any reason, including but not limited to, leave of absence, shall not be eligible for holiday pay. Employees who may be laid off for lack of work in a work week containing a holiday or the week before or after such holiday shall not thereby be rendered ineligible for holiday pay.

Section 3. Employees who work on a holiday shall be paid for such work at time and one-half their regular basic hourly straight-time rate of pay for all hours of work performed on the holiday together with, if eligible, the holiday pay provided for above.

Section 4. If a holiday designated above falls on a Saturday or a Sunday, the City may designate when such holiday will be observed.

Section 5. If a holiday falls within an employee's scheduled vacation period, the employee shall receive holiday pay.

ARTICLE 16 - VACATIONS

Section 1. Full-time employees will be granted paid vacations as follows:

- | | |
|--------------------------------------|-----------|
| After one (1) year of service | 40 hours |
| After three (3) years of service | 80 hours |
| After seven (7) years of service | 120 hours |
| After thirteen (13) years of service | 160 hours |
| After twenty (20) years of service | 200 hours |

Section 2. Employees hired prior to November 1, 2004 will be granted paid vacations as follows for service beyond fifteen (15) years:

- | | |
|-------------------------------------|-----------------------------|
| After fifteen (15) years of service | 168 hours |
| After twenty (20) years of service | refer to chart in Section 1 |

Section 3. Unless mutually agreed to by the supervisor and the employee, employees must give the City at least ten (10) day's written notice of their intention to take vacation and such requests must be approved in writing. The City will notify the employee at least seven (7) days prior to the requested vacations as to the status of their request.

Section 4. All vacation must be used in the year earned, with no more than forty (40) hours carried over to the following year. All carried over vacation days must be used before the last

business day in April of the year they are carried forward, unless due to the request of the Employer an employee cannot take a scheduled vacation.

Section 5. All vacation must be used in a minimum of one-fourth (1/4) hour increments.

ARTICLE 17 - PERSONAL DAYS

Section 1. Upon application in writing, leave from employment for personal reasons may be granted without pay to an employee upon written approval. Such unpaid personal leave may not be for a period in excess of seven (7) calendar days. During such personal leave, an employee may continue health and life insurance benefits, if available, provided he pays the full cost of such coverage. However, no other benefits shall accrue during a leave for personal reasons.

Section 2. Each employee shall receive one (1) paid personal day per year after one (1) year of employment; two (2) paid personal days per year after three (3) years of employment; three (3) paid personal days per year after five (5) years of employment; and four (4) paid personal days per year after six (6) years of employment. Notification of the employee's intent to use a personal day must be made at least two (2) days prior to the beginning of that shift, except in case of an emergency, and must be approved. Approval for use of a personal leave day will not be unreasonably denied.

Section 3. Employees can take personal leave in increments of one-fourth (1/4) hours or more.

Section 4. Personal days shall be used during the calendar year of the entitlement and cannot be turned in for money.

ARTICLE 18 - WAGE RATES AND ALLOWANCES

Section 1. Wages. Wages progressions for classification covered by this Agreement appear in Appendix "A" of this Agreement.

Section 2. Uniforms. The City will continue to furnish uniforms to the employees who are required to wear them. Employees will be responsible for maintaining the uniform. New employees shall receive uniforms after their first ninety (90) working days from date of hire.

Boot Allowance. Employees who have been employed by the City for one (1) year shall receive a Twenty-Five Dollar (\$25.00) boot allowance annually toward the purchase of new work boots. The employee must present a receipt in order to receive said allowance. Clerical employees are not eligible for the boot allowance.

Section 3. Required CDL License. For employees that the City requires to have a CDL license, the City will pay all costs associated with obtaining and renewing such license.

ARTICLE 19 - INSURANCE

The City will pay the entire cost of health insurance for the employees. If the employees so choose, the employee will pay the cost for any spouse or dependent coverage. In the event that health benefit regulations substantially increase, alter, or impair the financial obligations of the City, only Article 19 Insurance may be re-opened for discussion between the Union and the City.

ARTICLE 20 - PENSION

Section 1. The Employer and the employee shall continue to participate in IMRF according to State Statute.

ARTICLE 21 - SICK LEAVE

Employees covered by this Agreement, including probationary employees, shall accumulate sick leave at the rate of four (4) hours per pay period which may accumulate to a maximum of one hundred twenty-five (125) days.

Sick leave may be used for personal illness of employee, or the employee's spouse, parents and children.

The Employer may require a physician's certificate after an absence of three (3) consecutive working days or as may be deemed necessary in other cases.

Sick leave may be used in one-fourth (1/4) hour increments. The City reserves the right to request proof of actual attendance at medical appointments during working hours.

Upon resignation or retirement an employee may apply his accrued sick leave toward his IMRF pension according to the rules and regulations of the plan. Unused sick leave days are not eligible for payment if used for IMRF retirement purposes. Sick leave will not accrue during any leave of absence.

ARTICLE 22 - TRAINING

If the Employer requires an employee to attend job related training, all costs associated with the training shall be the responsibility of the Employer.

Meal allowance for employees engaged in training and/or schooling programs shall be for a total of Thirty Dollars (\$30.00) per day. An employee requesting meal allowance must submit receipts to receive reimbursement.

If an employee(s) uses their personal vehicle they will be reimbursed at the IRS maximum allowable rate for mileage.

ARTICLE 23 – EQUIPMENT, ACCIDENTS, REPORTS

Section 1. Any employee involved in an accident or incident, if able, shall immediately report said accident/incident and any physical injury sustained in writing on forms furnished by the Employer and shall turn in all available names and addresses of witnesses to the accident or incident. Reports are to be made out on City time at the applicable hourly rate and employees are subject to discipline up to and including discharge for failure to complete reports or for providing false information.

Section 2. Employees shall immediately report all defects of equipment. Such reports shall be made on a suitable form furnished by the Employer. A copy will be furnished to the Employer upon request.

Section 3. The Employer shall not require any employee to operate equipment that has been reported as being in an unsafe operating condition until same has been approved as being safe by the mechanical department.

ARTICLE 24 - ON-THE-JOB INJURY, SERVE AS WITNESS

Section 1. Any job-related injury must be reported by the employee within a maximum of twenty-four (24) hours to the insurance administrator at City Hall. Whenever the City determines an employee is unable to complete a day's work because of injury in the line of duty, they are to receive no less than their normal straight time earning for that day. In Workman's Compensation the first three (3) day waiting period required before Workman's compensation payment commences shall be charges against the employee's sick leave. Further, the City shall not reimburse the employee for the difference between the two-thirds (2/3) salary paid by Workman's Compensation and the employee's regular salary unless the employee desires to use accumulated benefit hours for that purpose. If Workman's Compensation period extends to fourteen (14) days, the method of reimbursement for said first three (3) days shall be negotiated with the City Treasurer. The City will continue to pay their portion of the employee's health care premium during any periods of time that an employee receives Workman's Compensation for injuries received while employed by the City of Newton.

Section 2. All time spent receiving medical attention on the date of injury, related to the injury, shall be paid as time worked at the appropriate hourly rate of pay.

Section 3. Any employee required to serve as a witness at the request of the Employer, shall be compensated for all time involved, at the appropriate hourly rate of pay.

Section 4. Light Duty. The employee may be able to return to work after being medically cleared to do so in writing with restrictions listed, pending the confirmation by the Department Head and/or the Committee Chairman of available light duty work.

ARTICLE 25 - PERSONNEL FILES

Section 1. Personnel File. An official personnel file for each employee shall be maintained by the Employer at a central location. Each employee shall provide the Employer with his current telephone number and address.

Section 2. Right of Inspection. Employee shall have the right to review the contents of their personnel files as provided in the Illinois Personnel Records Act, Ch. 48 Illinois Compiled Statutes, et seq.

It is agreed that any material and/or matter not available for inspection, such as provided in this Section 2, shall not be used in any manner or any forum adverse to the employee's interest.

ARTICLE 26 - SAVINGS CLAUSE

None of the foregoing shall be construed as requiring either party to do anything inconsistent with Federal or State Law, or Local Ordinance or the final order of judgment of any court having jurisdiction over the parties.

If any provision of this Agreement should be rendered or declared invalid and unenforceable by any court of competent jurisdiction or by reason of any existing or subsequently enacted legislation, the remaining parts or portions of this Agreement shall remain in full force and effect and the parties agree immediately to negotiate alternative language to substitute for any invalid provision.

ARTICLE 27 - WAIVER OFFURTHER BARGAINING

Section 1. Since this Agreement expresses the understandings of the parties in respect to all matters deemed by them to be applicable to the bargaining unit for the term of this Agreement, the City and the Union each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to or covered by this Agreement or with respect to any subjects or matters not specifically referred to or covered by this Agreement and even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

Section 2. The City does not by this Agreement waive any rights, legal or equitable, which it would otherwise have except as specifically defined and provided in this Agreement which sets forth all understandings and agreements arrived at by the parties.

ARTICLE 28 – UNION SECURITY

Section 1. All dues, initiation fees, and assessments levied by the Union on the employees covered by this Agreement shall be checked off from the wages of such employees once each month and remitted by the City to the Secretary/Treasurer of the Union. The check off, however, is to apply only to such employees covered by this Agreement who authorize the City in writing to so check off. If an employee(s) should at any time contend that the City acted wrongfully or illegally in making a check off for dues initiation fees, or assessments, the Union will defend and protect the City against expenses, repayments, or losses on account of such contention.

The dues check off authorization to be signed is included as Appendix "B".

Section 2. Indemnification. The Union shall indemnify, defend, and hold the Employer harmless against any claim, demands, suit or liability arising from any action taken by the Employer in complying with this Article.

ARTICLE 29 – TERMINATION OF AGREEMENT

This Agreement shall become effective as of the **1st day of May, 2022** and shall remain in full force and effect through **April 30th, 2026**, and each year thereafter, unless written notice of termination or desired modification is given at least ninety (90) days prior to the expiration date or any subsequent anniversary thereof by either of the parties hereto.

City of Newton, Illinois

For the Union

/s/ Joshua Kuhl
Joshua Kuhl, Mayor

/s/ Flint Taylor
Flint Taylor, Business Manager
Laborers' Local 1197

Date 6/14/2022

Date 6/1/2022

/s/ Rodney Masterson
Southern and Central Illinois
Laborers' District Council

Date 6/1/2022

APPENDIX "A"

SALARY SCHEDULE

Months:	May 1, 2022	May 1, 2023	May 1, 2024	May 1, 2025
0-6	\$17.05	\$17.65	\$18.25	\$18.85
7-12	\$17.80	\$18.40	\$19.00	\$19.60
13-24	\$18.55	\$19.15	\$19.75	\$20.35
25-36	\$19.30	\$19.90	\$20.50	\$21.10
37-48	\$20.05	\$20.65	\$21.25	\$21.85
49-60	\$20.80	\$21.40	\$22.00	\$22.60

An employee currently employed less than ten (10) years with the City shall receive a Twenty-Five Cent (\$0.25) per hour increase on their ten (10) year anniversary hire date. An employee currently employed less than twenty (20) years with the City shall receive a Twenty-Five Cent (\$0.25) per hour increase on their twenty (20) year anniversary hire date.

Notwithstanding the foregoing salary schedule, any employee covered by this Agreement who currently earns more than he/she would earn under the above schedule shall receive a Fifty-five Cent (\$0.55) per hour raise effective May 1st, 2022, and a Sixty Cents (\$0.60) per hour increase on every May 1st thereafter during the term of this contract.

A Thirty Cent (\$0.30) per hour employee increase will be granted for completion of schooling and receipt of a Certificate(s). No employee shall attend any schooling program for which they wish to be reimbursed in any matter without prior approval of the Council.

Department certificates include the following:

Water Department: "D", "C", "B", "A"

Waste Water Department: "4", "3", "2", "1"

Electric Department: "First year Distribution", "Second year Distribution", "Third year Advanced Distribution", "Metering"

Parks Department: "Pool Operator"

APPENDIX "B"

DUES AUTHORIZATION FORM
CITY OF NEWTON, ILLINOIS

You are hereby authorized and requested to deduct from wages hereafter due me, and payable on the first and second pay due in each calendar month, such sums for Union fees, assessments and dues as may be certified due from me to Local 1197 by the Secretary-Treasurer of said Union. You are hereby authorized and directed to pay the amount deducted to the Secretary-Treasurer of Local 1197 for my account on or before the thirtieth (30th) day of the calendar month, for which said deductions are made.

You are further authorized and requested to continue monthly deduction unless a thirty (30) day written notice is given to you, from me, advising the discontinuation of such deduction.

Dues, fees, contributions or gifts to Laborers' Local #1197 are not deductible as charitable contributions. However, they may be tax deductible as ordinary business expenses.

Print Name

Address

Social Security Number

City State Zip

Date of Birth

Telephone number

Email address

Signature

Date

CHAPTER 21 - LIQUOR

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CHAPTER 21

LIQUOR

ARTICLE I – GENERALLY

21-1-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

“ALCOHOL” means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

“ALCOHOLIC LIQUOR” includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(235 ILCS 5/1-3.05)**

“BEER” means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(235 ILCS 5/1-3.04)**

“CATERER RETAILER” means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(235 ILCS 5/1-3.34)**

“CLOSE” means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

“CLUB” means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(235 ILCS 5/1-3.24)**

“CORPORATION” means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the “Business Corporation Act” of Illinois. **(Rule 100.10(b))**

“DISTILLED SPIRITS”. See “Spirits”.

“ENTERTAINMENT AND EVENT VENUE” shall mean a facility designed and actually used, at least in part for the purpose of accommodating public or private events, celebrations, parties, fundraisers, or other types of entertainment for individuals or groups. **(Ord. No. 20-08; 06-02-20)**

“EVENT” means a single theme. **(Rules and Regulations 100.10(o))**

“HOTEL” means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(235 ILCS 5/1-3.25)**

“MANAGER” OR “AGENT” means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

“MAYOR” means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled “Dramshop”** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

“MEAL” means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

“ORIGINAL PACKAGE” means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(235 ILCS 5/1-3.06)**

“PACKAGE LIQUOR STORE” means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

“PARTNER” is any individual who is a member of a co-partnership. “Co-partnership” means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

“PREMISES/PLACE OF BUSINESS” means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

“PRIVATE FUNCTION” means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

“PUBLIC PLACE” means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **“public place”** and **“public premises”** shall be interchangeable for the purposes of this Chapter.

“RESIDENT” means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the

premises covered by the license are located for at least **ninety (90) days** prior to making application for such license. **(Rule 100.10(a))**

“RESTAURANT” means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(235 ILCS 5/1-3.23)**

“RETAILER” means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.17)**

“SALE” means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(235 ILCS 1-3.21)**

“SELL AT RETAIL” and “SALE OF RETAIL” refer to any mean sales for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.18)**

“SPECIAL EVENT” means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(235 ILCS 5/1-3.30)**

“SPECIAL EVENTS RETAILER” means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(235 ILCS 5/1-3.17.1)**

“SPIRITS” means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(235 ILCS 5/1-3.02)**

“TO SELL” includes to keep or expose for sale and to keep with intent to sell. **(235 ILCS 5/1-3.22)**

“WINE” shall mean 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. **(Ord. No. 20-08; 06-02-20)**

“WINE TASTING” shall mean an event in which wine is served in small quantities for consummation as a sample of product being sold by a license holder. Wine Tastings may be free or for a fixed price for any quantity consumed or sold. **(Ord. No. 20-08; 06-02-20)**

ARTICLE II - LICENSES

21-2-1 **LICENSE REQUIRED.** No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(235 ILCS 5/4-1)**

21-2-2 **APPLICATIONS.** The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Municipal Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

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

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

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **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, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(235 ILCS 5/7-1)**

21-2-3 EXAMINATION OF APPLICANT. The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(235 ILCS 5/4-5)**

21-2-4 PROHIBITED LICENSEES. No retail license shall be issued by the Mayor to the following:

- (A) A person who **is not** a resident of this municipality;
- (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, any mayor, any trustee, and no such official shall be interested directly in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor

Control Commission and except that a license may be granted, in a Village with a population of **fifty thousand (50,000)** or less, to any trustee, in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board of council to which the license holder is elected;

(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 person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Section 5/6-21 of Chapter 235 of the Illinois Compiled Statutes;

(U) A person who is delinquent in the payment of any indebtedness or obligation to the Village;

(V) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Mayor shall determine if all provisions of this paragraph (V) have been met before any action on the corporation's license is initiated;

(W) 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;

(X) 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;

(Y) Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period. **(235 ILCS 5/6-2)**

21-2-5 REQUISITES FOR MANAGER. No licensee shall employ any person to manage his licensed liquor establishment, unless such person possesses the same qualifications required of a licensee in **Section 21-2-4**, except for residency and citizenship. No licensee shall permit any person to act as a manager of his liquor establishment, unless such manager has been approved by the Local Liquor Commissioner.

21-2-6 TERM: FEE SUBMITTED IN ADVANCE. Retail liquor licenses issued under this Chapter shall be valid for a **twelve (12) month period** upon the payment of the license fee as hereinafter set forth unless sooner revoked or suspended. The **twelve (12) month period** shall be from **July 1st to June 30th** 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. A licensee may make arrangements to pay the liquor license fees quarterly. In the event the license is denied, the license fee

shall be returned to the applicant. The fees shall be deposited in the Municipal General Fund. The application for a license shall be filed with the Municipal Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. **(235 ILCS 5/4-1)**

21-2-7 **INITIAL FEE.** The first annual fee for any new alcoholic license, regardless of Class, is hereby established at **Five Thousand Dollars (\$5,000.00)**. The second annual fee and the annual fees thereafter shall be at the regular rate as established in **Section 21-2-8**. For the purposes of this paragraph, a "new alcoholic license" is defined to be any new license not heretofore provided for in **Section 21-2-8**. **(Ord. No. 93-20; 10-05-93)**

21-2-8 **CLASSIFICATION - FEE - LIMITATION.** Every person engaged in the retail sale of alcoholic liquor in the City shall pay an annual license fee. Such licenses shall be divided into the following classes:

(A) **Class "A"**, which shall only permit the retail sale of alcoholic liquor in sealed packages, but not for consumption on the premises where sold. The annual license fee shall be **Three Hundred Seventy-Five Dollars (\$375.00)**. There shall be no more than **one (1) license** issued during any year.

(B) **Class "B"**, which shall permit the retail sale of alcoholic liquor for consumption on or off the premises where sold, and not for resale in any form. The annual license fee shall be **Five Hundred Dollars (\$500.00)**. There shall be no more than **four (4) licenses** issued during any year.

(C) **Class "C"**, which shall permit the retail sale of all alcoholic liquor for consumption only on the premises where sold, and not for resale in any form. The annual license fee shall be **Five Hundred Dollars (\$500.00)**. There shall be no more than **two (2) licenses** issued during any year.

(D) **Class "E"**, which shall permit the retail sale of alcoholic beverages in restaurants, where meals are served and only for consumption on the premises and not for resale in any form. The annual license fee shall be **Five Hundred Dollars (\$500.00)**. There shall be no more than **six (6) licenses** issued during any year.

(E) **Class "F"**, which shall permit the retail sale of beer and alcoholic liquor for consumption only on the premises where sold, to be issued to a regularly organized club, as hereinbefore defined, such sales to be made only to members of the club and to their guests. The annual license fee shall be **Five Hundred Dollars (\$500.00)**. There shall be no more than **four (4) licenses** issued during any year.

(F) **Class "G"**, which shall permit only the retail sale of beer and wine in sealed packages for consumption off the premises where sold and not for resale in any form. The annual license fee shall be **Three Hundred Seventy-Five Dollars (\$375.00)**. There shall be no more than **three (3) licenses** issued during any year.

(G) **Class "EEV"**. A Class EEV license shall entitle the licensee to make consumption sale of any alcoholic liquor for consumption on the licensed premises; provided, that this Class EEV license shall not authorize package sales, except as hereinafter set forth. Provided further that this classification of license may only be issued to a licensee defined as an Entertainment and Event Venue as defined in **Section 21-1-1** that hosts and/or hold not less than **twelve (12) events** per calendar year. Notwithstanding any other provision of this Section, a Class EEV license shall not be required to comply with the continuous operation provisions contained within this Section. Further, the Class EEV license

shall only authorize the sale of alcoholic liquor during periods of time when the individuals and/or groups are assembled on the licensed premises solely for the promotion of those purposes included in the definition of an "Entertainment and Event Venue" contained in Article II and only during the periods of time of the actual entertainment or event. The Class EEV license holder may conduct a Wine Tasting Event, celebration, party, fundraiser or other type of entertainment for groups or individuals and as a result thereof may engage in the retail sale of bottles of wine presented for tasting during said event but only during the periods of time when the individual and/or groups are assembled on the license premises and during such time of the Wine Tasting Event. The annual license fee shall be **Five Hundred Dollars (\$500.00)**. There shall be no more than **three (3) licenses** issued during any year.

All licenses issued hereunder shall be designated by the classification letter herein provided.

(Ord. No. 22-12; 06-21-22)

21-2-9 **OUTSIDE SALES.** Any license holder desiring to serve alcoholic beverages for consumption outdoors, must construct and maintain a wall or fence having a minimum height of **four (4) feet** and which surrounds the entire area. Said wall must be located a minimum of **six (6) feet** from any public sidewalk. The plans for said wall or fence must be approved by the City Council prior to the wall or fence construction. **(Ord. No. 21-06; 06-01-21)**

21-2-10 **SPECIAL EVENTS LICENSE.**

(A) **Purpose.** A Special Event liquor license may be issued for a limited period of time for the purpose of allowing the licensee to raise funds for charitable, educational or civic purposes.

(B) **Issuance.** A Special Event liquor license may be issued to:

- (1) A legal entity organized and operating under the law of the State of Illinois for charitable, education, or civic purposes.
- (2) A "special event" is defined as any event of charitable, educational or civic nature, provided that such special event shall not otherwise conflict with, or violate, any provision of this or any other Article of the City.
- (3) Application shall be made with the liquor commissioner no less than **thirty (30) days** prior to the date when the Special Event license shall be issued.

(Ord. No. 19-03; 03-05-19)

(C) **Term.** The Special Event license shall be issued for a period not to exceed **six (6) consecutive days** and shall be effective each day from **12:00 o'clock Noon** to the following **12:01 A.M.** **(Ord. No. 13-10; 09-17-13)**

(D) **Restrictions.** A Special Event license holder is subject to the following restrictions:

- (1) All alcoholic liquor by the drink for consumption on the premises may be sold.
- (2) For "tasting events" package liquor may be purchased and carried off premises.
- (3) No more than **six (6)** Special Event licenses shall be issued hereunder within any calendar year.
- (4) Special Event sites may include an outdoor area, if such area is completely enclosed by an interior fence or wall at least **four (4) feet** high which is then further enclosed by a fence or wall at least **four (4) feet** high and providing a buffer of no less than **four (4) feet** beyond the perimeter of the interior fence or wall. Such buffer zone shall be so designed as to prohibit the contact between persons within the special event interior fence or wall and those persons outside. Other materials and/or designs may be submitted for approval.
- (5) All liquor that is to be consumed on the premises at the special event site must be served inside a tent or other structure with opaque walls.

- The liquor at the special event may be consumed outside the tent and/or other opaque structures, however, the consumption must be within the confines of the special event site described in paragraph (D)(4).
- (6) No direct access from any public street, driveway, alley or sidewalk nor any unsupervised access from any other location into any special event licensed area shall be permitted.
 - (7) Entertainment at special event activities licensed to take place outdoors shall be terminated no later than **12:01 A.M.**
 - (8) A Special Event license is limited to the area owned, leased or rented by such holder on which the special event is to take place.
 - (9) All Federal, State and City Laws and Regulations must be complied with at all times.
 - (10) A minimum of **one (1)** responsible person that is certified as being BASSET trained must be in attendance. Written evidence of that person's BASSET training must be provided to the City.
 - (11) During the special event, its exact location may vary as long as that location is still on the same parcel.

(Ord. No. 19-03; 03-05-19)

(E) **Application.** In addition to the foregoing requirements, the applicant shall include the following information and additional documentation:

- (1) An executed copy of the lease, rental agreement or other written authority for the use of the premises if the applicant is not the owner of the premises.
- (2) A drawing/diagram to scale of the special event premises requested.
- (3) The purpose for the issuance of the license.
- (4) A statement of the applicant's plans for crowd control, including the number and names of persons working access points into the event area and parking/traffic considerations.
- (5) A special events permit from the State of Illinois and certificate of insurance showing evidence of dram shop and liability insurance coverage.
- (6) The specific times and date for the term of the special event license.

(F) **Fees.** The fee for the Special Event license issued shall be **One Hundred Dollars (\$100.00)** for the first day of the special event and **Twenty-Five Dollars (\$25.00)** per day thereafter for each day for which the license is used and shall be paid in full at the time the license is issued. **(Ord. No. 10-2; 02-16-10)**

21-2-11 NATURE OF LICENSE. A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. **(235 ILCS 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

21-2-12 LIMITATION OF LICENSES.

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(235 ILCS 5/4-1)**

21-2-13 DRAMSHOP INSURANCE. No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following coverages up to the full amount of potential liability as established by the Illinois Compiled Statutes from time to time. **(235 ILCS 5/6-21)**

21-2-14 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. Whenever such license shall be lost or destroyed, a duplicate shall be issued by the City Clerk at a cost of **Two Dollars (\$2.00)**. **(235 ILCS 5/6-24)**

21-2-15 RECORD OF LICENSES. The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours**. **(235 ILCS 5/4-1)**

ARTICLE III - REGULATIONS

21-3-1 **HOURS.** It shall be lawful for holders of a liquor license to sell or offer for sale alcoholic liquor as permitted by the holders Class of license from the City between the hours of **8:00 A.M.** and the next following **2:00 A.M.** every day, including Sundays and holidays. It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the City between the hours of **2:00 A.M.** and the next following **8:00 A.M.**, every day of the week, including Sundays and holidays.

The premises on which alcoholic liquor is sold shall be cleared of all persons, except owners and employees, and closed within **thirty (30) minutes** after the last allowable time for sale of alcoholic liquor as provided herein provided this paragraph shall not apply to those portions of Class "A" licensed premises which are devoted to the business of the sale of services or commodities other than alcoholic liquor.

It shall be unlawful to keep open for business or to admit the public to, or permit the public to remain within, or to permit the consumption of alcoholic liquor in or upon any premises in which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited; provided that restaurants, hotels and those portions of Class "A" licensed premises which are devoted to the business of the sale of services or commodities other than alcoholic liquor, may be kept open for business during such hours, but no alcoholic liquor may be sold to, or consumed by the public during such hours. **(Ord. No. 12-17; 11-06-12) (235 ILCS 5/4-1)**

21-3-2 **HAPPY HOUR RESTRICTIONS.**

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Sell more than **one (1) drink** of alcoholic liquor for the price of **one (1) drink** of alcoholic liquor;
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided by **235 ILCS 5/6-28.5**;
- (3) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
- (5) Advertise or promote in any way, whether on or off the licenses premises, any of the practices prohibited under paragraphs (1) through (4).

(C) Permitted happy hours and meal packages, party packages, and entertainment packages.

(1) As used in this Section:

- (a) **"Dedicated event space"** means a room or rooms or other clearly delineated space within a retail licensee's premises that is reserved for the exclusive use of party package invitees during the entirety of a party package. Furniture, stanchions and ropes, or other room dividers may be used to clearly delineate a dedicated event space.

- (b) **“Meal package”** means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting, or any combination thereof for a fixed price by a retail licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.
 - (c) **“Party package”** means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.
- (2) A retail licensee may:
- (a) offer free food or entertainment at any time;
 - (b) include drinks of alcoholic liquor as part of a meal package;
 - (c) sell or offer for sale a party package only if the retail licensee:
 - (i) offers food in the dedicated event space;
 - (ii) limits the party package to no more than **three (3) hours**;
 - (iii) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and
 - (iv) excludes individuals not participating in the party package from the dedicated event space;
 - (d) include drinks of alcoholic liquor as part of a hotel package;
 - (e) negotiate drinks of alcoholic liquor as part of a hotel package;
 - (f) provide room service to persons renting rooms at a hotel;
 - (g) sell pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes, or bottles of alcoholic liquor which are customarily sold in such manner, or sell bottles of spirits;
 - (h) advertise events permitted under this Section;
 - (i) include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by a municipal ordinance that (i) restricts dates of operation to dates during which there is an event at an adjacent stadium, (ii) restricts hours of serving alcoholic liquor to **two (2) hours** before the event and **one (1) hour** after the event, (iii) restricts alcoholic liquor sales to beer and wine, (iv) requires tickets for admission to the establishment, and (v) prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single events only; and
 - (j) discount any drink of alcoholic liquor during a specified time period only if:
 - (i) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;
 - (ii) the period of time during which any drink of alcoholic liquor is discounted does not exceed **four (4) hours** per day and **fifteen (15) hours** per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;

- (iii) the drink of alcoholic liquor is not discounted between the hours of **10:00 P.M.** and the licensed premises' closing hour; and
- (iv) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least **seven (7) days** prior to the specified time.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by **Article IV** of this Chapter. **(235 ILCS 5/6-28)**

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred feet (100')** 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 feet (100')** of any church or school where such church or school has been established within such **one hundred feet (100')** since the issuance of the original license. In the case of a church, the distance of **one hundred feet (100')** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(235 ILCS 5/6-11)**

21-3-4 CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(235 ILCS 5/7-14)**

21-3-5 STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC. No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(235 ILCS 5/6-12)**

21-3-6 TRANSPORTING, ETC., IN MOTOR VEHICLES. No person shall, within this municipality, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

21-3-7 OPEN LIQUOR - CUP-TO-GO PROHIBITED. The licensee shall not knowingly permit any person to leave his premises with open liquor or in a "**cup-to-go**".

21-3-8 LIQUOR IN VEHICLES; UNDERAGE. The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A) If such liquor is found on the person of one of the occupants therein; or
 (B) If such vehicle contains at least one occupant over **twenty-one (21) years of age**.

21-3-9 **RESTRICTED RESIDENTIAL AREAS.** It shall be unlawful to establish a retail liquor business within the City in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

21-3-10 **ELECTION DAYS.** All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

21-3-11 **UNLAWFUL ACTS.** It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

- (A) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Mayor.
 (B) Drink any alcoholic liquors in any public park, except with the permission of the Mayor.
 (C) Drink any alcoholic liquors 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.

21-3-12 **UNLAWFUL ENTERTAINMENT.** No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward]**, or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

- (A) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts;
 (B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
 (C) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals;
 (D) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to view any portion of his or her breasts, buttocks, genitals, vulva, or anus;
 (E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-13 **SANITARY CONDITIONS.** All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(410 ILCS 650/1, et seq.)**

21-3-14 **DISEASED EMPLOYEES.** It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(410 ILCS 650/10)**

21-3-15 **HEALTH PERMIT.** Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-16 **PEDDLING.** It shall be unlawful to peddle alcoholic liquor in this municipality. **(235 ILCS 5/4-1)**

21-3-17 **GAMBLING.** It is unlawful to keep, place, maintain, or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, except as authorized by the Video Gaming Act or other law of the State of Illinois. It shall be unlawful for any licensee or licensee's agent and/or employee, to give or award a cash prize or equivalent to any person playing any devices or machines defined as a coin-operated amusement device pursuant to **Section 7-4-1** of the City Code, except as may be authorized by the Video Gaming Act or other statute of the State of Illinois. **(720 ILCS 5/28-1) (Ord. No. 10-20; 09-07-10)**

21-3-18 **DISORDERLY HOUSE.** Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(235 ILCS 5/4-1)**

21-3-19 **PROHIBITED SALES - GENERALLY.** No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(235 ILCS 5/6-16)**

21-3-20 **PERSONS SELLING LIQUOR.** It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to draw, pour or mix any alcoholic liquor. In a Class "A", "C", "E" or "G" licensed business, a person may serve alcoholic liquor if he is **eighteen (18) years** of age or older. **(235 ILCS 5/4-1) (Ord. No. 01-17; 07-03-01)**

21-3-21 **UNDERAGED; ENTRY ON LICENSED PREMISES.** It shall be unlawful for any person under the age of **twenty-one (21) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class "B" license unless accompanied by a parent or legal guardian. No holder of a Class "B" license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not

accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this section, any holder of a Class "B" license, or his agent or employee, may refuse to permit entry onto the licensed premises of any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian. **(235 ILCS 5/4-1)**

21-3-22 **UNLAWFUL PURCHASE OF LIQUOR.** Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(235 ILCS 5/6-20)**

21-3-23 **IDENTIFICATION REQUIRED.** If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(235 ILCS 5/6-20)**

21-3-24 **TRANSFER OF IDENTIFICATION CARD.** No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(235 ILCS 5/6-20)**

21-3-25 **POSTING WARNING.** In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

"YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR."

21-3-26 **EXCLUSIONARY PROVISION.** The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(235 ILCS 5/6-20)**

21-3-27 **INSPECTIONS.** It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(235 ILCS 5/4-4)**

21-3-28 **BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS.** It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises but must be maintained in the State of Illinois. **(235 ILCS 5/6-10)**

21-3-29 **RESTRICTIONS ON LICENSEE.** In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-30 **SELLING FALSE IDENTIFICATION.** Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-31 **FALSE IDENTIFICATION.** Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-32 **UNDERAGED DRINKING ON STREETS.** Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(235 ILCS 5/6-16)**

21-3-33 RESIDENTIAL DRINKING. Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **eighteen (18) years** of age and the following factors also apply:

- (A) the person occupying the residence knows that any such person under the age of **eighteen (18)** is in possession of or is consuming any alcoholic beverage; and
- (B) the possession or consumption of the alcohol by the person under **eighteen (18)** is not otherwise permitted by this Code and
- (C) the person occupying the residence knows that the person under the age of **eighteen (18)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(235 ILCS 5/6-16)**

21-3-34 RENTING HOTEL ROOMS FOR DRINKING. Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-35 BASSET TRAINING REQUIRED.

(A) For all licenses issued on or after **October 1, 2016** and all original or renewal applications for all classes of liquor licenses shall be accompanied with proof of completion of a State Certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purpose of alcoholic beverages, pursuant to that license.

(B) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by **235 ILCS 5/3-12(11.1)** and **6-27** and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional), to participants as proof of completion.

(C) After **October 1, 2016**, any new owner, manager, employee, or agent requiring BASSET training, shall within **ninety (90) days** from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.

(D) A photo copy of certificate of completion for all owners, managers, employees, or agents required by this Section to have BASSET training shall be maintained, by the establishment, in manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities.

(E) The City will honor all State of Illinois Liquor Control Commission (ILCC) BASSET approved programs.

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(235 ILCS 5/10-2)**

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(235 ILCS 5/10-3)**

21-4-3 REVOCAION OF LICENSE AFTER CONVICTION. Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(235 ILCS 5/10-4)**

21-4-4 REVOCAION OF LICENSE WHEN EMPLOYEE CONVICTED. Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(235 ILCS 5/10-5)**

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(235 ILCS 5/10-6)**

21-4-6 ABATEMENT OF PLACE USED IN VIOLATION. Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(235 ILCS 5/10-7)**

21-4-7 USE OF PREMISES FOR ONE YEAR AFTER REVOCAION. When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(235 ILCS 5/7-13)**

21-4-8 **REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(235 ILCS 5/4-4)**

21-4-9 **COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(235 ILCS 5/7-7)**

21-4-10 **REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING.** The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A) **Fine as Opposed to Suspension or Revocation.** In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars (\$1,500.00) for a second violation within a twelve (12) months period, and Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. No more than Fifteen Thousand Dollars (\$15,000.00) in fines under this section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (See P.A. 89-0063)

(B) **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended, and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Liquor

Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commissioner shall be predicted upon competent evidence. **(235 ILCS 5/7-5)**

21-4-11 APPEALS FROM ORDER OF LIQUOR COMMISSIONER. Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(235 ILCS 5/7-9)**

21-4-12 SUBSEQUENT VIOLATIONS IN A YEAR. In any case, in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period.** **(235 ILCS 5/7-9)**

21-4-13 APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION. Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(235 ILCS 5/7-9)**

APPLICATION
FOR
LIQUOR LICENSE
REQUIRED BY

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: _____
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 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? _____

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., _____.

APPLICANT(S): _____

CLERK

(SEAL)

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CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT PREVENTION POLICY

22-1-1 **DEFINITIONS.**

(A) For purposes of this Policy, the term “*Covered Account*” means an account that the City offers or maintains, primarily for personal, family or household purposes, that involves or is designed to permit multiple payments or transactions and any other account that the City offers or maintains for which there is a reasonably foreseeable risk to customers or the safety and soundness of the City from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(B) For purposes of this Policy, the term “*Identity Theft*” means a fraud committed or attempted using the identifying information of another person without authority.

(C) For purposes of this Policy, the term “*Red Flag*” means a pattern, practice, or specific activity that indicates the possible existence of identity theft. **Section 22-1-3** provides a specific description of which Red Flags are applicable to this Policy.

22-1-2 **INCORPORATION OF EXISTING POLICY AND PROCEDURE.** The following policies and procedures already in effect at the City are specifically incorporated and will continue to operate in conjunction with the Identity Theft Prevention to achieve its stated purpose. Not Applicable.

22-1-3 **IDENTIFICATION OF RELEVANT RED FLAGS.** After careful examination of our accounts, including the methods by which we open, access and past experience with identity theft, the following events/occurrences reasonably indicate the potential for identity theft and should be considered “Red Flags” for purposes of this policy:

(A) **Alerts, Notifications, or Other Warnings Received from Consumer Reporting Agencies or Service Providers, such as Fraud Detection Services.** For the purposes of this policy the City will be utilizing the ONLINE Utility Exchange as their service provider to identify the “Red Flags” listed below:

- (1) A fraud or active duty alert is included with a consumer report.
- (2) A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.
- (3) A consumer reporting agency provides a notice of address discrepancy **(See Section 22-1-7)**.
- (4) A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - (a) A recent and significant increase in the volume of inquiries;
 - (b) An unusual number of recently established credit relationships;
 - (c) A material change in the use of credit, especially with respect to recently established credit relationships; or
 - (d) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(B) **The Presentation of Suspicious Documents, such as:**

- (1) Documents provided for identification appear to have been altered or forged.
- (2) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.

- (3) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
- (4) Other information on the identification is not consistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check.
- (4) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(C) **The Presentation of Suspicious Personal Identifying Information, Such as a Suspicious Address Change.**

- (1) Personal identifying information provided is inconsistent when compared against external information sources used by the City. For example:
 - (a) The address does not match any address in the consumer report; or
 - (b) The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
- (2) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
- (3) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the City. For example:
 - (a) The address on an application is the same as the address provided on a fraudulent application; or
 - (b) The phone number on an application is the same as the number provided on a fraudulent application.
- (4) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:
 - (a) The address on an application is fictitious, a mail drop, or a prison; or
 - (b) The phone number is invalid, or is associated with a pager or answering service.
- (5) The SSN provided is the same as that submitted by other persons opening an account or other customers.
- (6) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
- (7) The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
- (8) Personal identifying information provided is not consistent with personal identifying information that is on file with the City.
- (9) If the City uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(D) **Unusual Use of, or Other Suspicious Activity Related to, a Covered Account.**

- (1) Shortly following the notice of a change of address for a covered account, the City receives a request for a new, additional, or replacement card or a cell phone, or for the addition of authorized users on the account.

- (2) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
 - (a) The majority of available credit is used for cash advances or merchandise that is easily convertible to cash (e.g., electronics equipment or jewelry); or
 - (b) The customer fails to make the first payment or makes an initial payment but no subsequent payments.
- (3) A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
 - (a) Nonpayment when there is no history of late or missed payments;
 - (b) A material increase in the use of available credit;
 - (c) A material change in purchasing or spending patterns;
 - (d) A material change in electronic fund transfer patterns in connection with a deposit account; or
 - (e) A material change in telephone call patterns in connection with a cellular phone account.
- (4) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
- (5) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's covered account.
- (6) The City is notified that the customer is not receiving paper account statements.
- (7) The City is notified of unauthorized charges or transactions in connection with a customer's covered account.

(E) **Notice From Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection with Covered Accounts Held by the City.**

- (1) The City is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

22-1-4 DETECTION, PREVENTION AND MITIGATION.

(A) **Detection.** In an effort to ensure proper detection of any Red Flags, all customers (consumers) must provide at least the following information/ documentation before any new covered account will be opened:

- (1) Full Name.
- (2) Date of birth (individual).
- (3) Address, (a residential or business street address for an individual; for an individual who does not have a residential or business street address, an Army Post Office (APO) or Fleet Post Office (FPO) box number, or the residential or business street address of next of kin or of another contact individual; or for a person other than an individual (such as a corporation, partnership, or trust), a principal place of business, local office, or other physical location.
- (4) Identification number, which shall be:
 - (a) For a U.S. person, a taxpayer identification number; or
 - (b) For a non-U.S. person, one or more of the following: a taxpayer identification number; passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing

nationality or residence and bearing a photograph or similar safeguard.

For any account holder of a covered account for which the above information is not already on file at the City the customer will be contacted within a reasonable period of time after discovering the missing information to obtain the necessary information.

To assist with detection of Red Flags, the City will implement the appropriate computer programs tailored to the City business needs to help authenticate customers, monitor transactions, and change of address requests. The following programs are being used and the City continued use thereof is incorporated and made part of this policy.

(B) **Preventing and Mitigating Identify Theft.** In the event a Red Flag is detected, the City is committed to preventing the occurrence of identify theft and taking the appropriate steps to mitigate any harm caused thereby. In order to respond appropriately to the detection of a Red Flag, The City shall consider any aggravating circumstance(s) that may heighten the risk of identity theft. After assessing the degree of risk posed, the City will respond to the Red Flag in an appropriate manner, which may include:

- (1) Monitoring a covered account for evidence of identity theft;
- (2) Contacting the customer;
- (3) Changing any passwords, security codes, or other security devices that permit access to a covered account;
- (4) Reopening a covered account with a new account number;
- (5) Not opening a new covered account;
- (6) Closing an existing covered account;
- (7) Not attempting to collect on a covered account or not selling a covered account to a debt collector;
- (8) Notifying law enforcement; or
- (9) Determining that no response is warranted under the particular circumstances.

In an effort to mitigate the damages caused by identity theft, the City has been utilizing the services of On Line Utility Exchange since March, 2008.

For the protection of our customers, all service providers hired by the City to perform any activity in connection with any covered account must also take appropriate steps to prevent identity theft. To this end, the City will only contract with service providers that have implemented and follow a similar identity theft prevention policy.

22-1-5 PROGRAM DATES. The City is committed to maintaining an Identity Theft Prevention Policy that is current with the ever-changing crime of identity theft. To that end, the City will reassess this policy on a periodic (annual) basis. In reassessing this policy, the City will add/delete Red Flags in **Section 22-1-3**, as necessary, to reflect changes in risks to customers or to the safety and soundness of the City from identity theft. The determination to make changes to this policy will be within the discretion of the City Council after careful consideration of the following:

- (A) The City's past experience(s) with identity theft;
- (B) Changes in methods of identity theft;
- (C) Changes in methods to detect, prevent, and mitigate identify theft;
- (D) Changes in the types of accounts that the City offers or maintains; and
- (E) Changes in the business arrangements of the City including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

(Ord. No. 09-2; 04-07-09)

ARTICLE II - USE OF SOCIAL SECURITY NUMBERS

22-2-1 DEFINITIONS.

"Person" means any individual in the employ of the City.

"Policy" or "Privacy Policy" means this document, as now or hereafter amended.

"Publicly post" or "publicly display" means to intentionally communicate or otherwise intentionally make available to the general public.

"Social Security Number" means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

22-2-2 PROHIBITED ACTIVITIES.

(A) No officer or employee of the City shall do any of the following:

- (1) Publicly post or publicly display in any manner an individual's Social Security Number.
- (2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.
- (4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City shall do any of the following:

- (1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.
- (2) Require an individual to use his or her Social Security Number to access an Internet website.
- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

(C) The prohibitions in subsection (B) do not apply in the following circumstances:

- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the City must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's Social Security Number will be achieved.
- (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
- (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: City employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a City facility.
- (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
- (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the City for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

22-2-3 PUBLIC INSPECTION AND COPYING OF DOCUMENTS. Notwithstanding any other provision of this policy to the contrary, all officers and employees of the City must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an individual's Social Security Number. All officers and employees of the City must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

22-2-4 APPLICABILITY.

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

22-2-5 COMPLIANCE WITH FEDERAL LAW. If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the City shall follow that law.

22-2-6 **EMBEDDED SOCIAL SECURITY NUMBERS.** Beginning immediately on the effective date of the City's authorizing Ordinance, no officer or employee of the City may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

22-2-7 **IDENTITY--PROTECTION REQUIREMENTS.**

(A) All officers, employees and agents of the City identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the City is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the City Council within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The City shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the City amends this Privacy Policy, then the City shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

22-2-8 **PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereafter.

22-2-9 **AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the City Council as the City Council shall deem necessary in its sole discretion in order to maintain the City's compliance with the Illinois Identity Protection Act as now or hereafter amended.

22-2-10 **CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]

ARTICLE III - FREEDOM OF INFORMATION POLICY

22-3-1 **PUBLIC RECORDS AVAILABLE.** To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the City shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

22-3-2 **DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.**

(A) The City Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the City under the Freedom of Information Act, insure that the City responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the City shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the City receives the written request;
- (2) Compute the date on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the City, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

22-3-3 **PROCEDURES.** The City shall prominently display at the City Clerk's office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the City, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the City, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

22-3-4 **REQUESTS TO INSPECT OR COPY.** All requests to inspect or copy records or documents prepared, maintained or under the control of the City shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial

purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the City.

(B) The written request shall be submitted to the City Clerk or to the Mayor. If neither the City Clerk nor the Mayor is available, the request shall be submitted to any employee of the City acting under the direction of the City Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the City, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the City may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the City agree to extend the period for compliance, a failure by the City to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at City Hall. If the person making the request asks the City to mail the documents, he or she shall provide the City with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the City shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the City shall furnish it in the format in which it is maintained by the City, or in paper format at the option of the person making the request.

22-3-5 REQUEST FOR COMMERCIAL PURPOSES. The City shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the City to provide the records requested and an estimate of the fees to be charged, which the City may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the City shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the City Code.

22-3-6 **FEES.** The City Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

22-3-7 **PUBLIC FILE.** The City Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

22-3-8 **GRANTING OR DENIAL OF REQUESTS.** A request for all records within a category shall be granted unless the request constitutes an undue burden upon the City. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the City and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the City. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

22-3-9 **CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

22-3-10 **NOTICE OF DENIAL OF REQUEST; APPEALS.**
 (A) If the City denies the request, the City shall notify the person making the request in writing of:

- (1) the decision to deny the request;
- (2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
- (3) the names and titles or positions of each person responsible for the denial;
- (4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
- (5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the City asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

- (1) a copy of the request for access to records;
- (2) the proposed response from the City;
- (3) a detailed summary of the City's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the City to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

ARTICLE IV - FAIR HOUSING CODE

22-4-1 **DECLARATION OF POLICY.**

(A) In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the City may be ensured, it is hereby declared the policy of the City to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B) It is the policy of the City that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the City, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C) Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

22-4-2 **DEFINITIONS.** Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A) **"Decent, Sanitary, Healthful Standard Living Quarters"**. "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

(B) **"Discriminate"**. The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(C) **"Financial Institution"**. The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(D) **"Housing Accommodation"**. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(E) **"Owner"**. An "owner" means any person/persons who hold legal or equitable title to, or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(F) **"Real Estate Broker"**. The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(G) **"Real Property"**. The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the City.

22-4-3 **PROHIBITED ACTS.** It shall be an unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the City:

(A) To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the City or in furnishing of any facilities or services in connection therewith.

(B) To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C) To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D) To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E) To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F) To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

(G) For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H) For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

22-4-4 **PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the City to specifically enforce, by any legal means, any of the provisions of this Code.

(65 ILCS 5/11-11.1-1)

ARTICLE V – INVESTMENT POLICY

22-5-1 **INVESTMENT POLICY.** It is the policy of the City to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

22-5-2 **SCOPE.** This policy includes all public funds of the City.

22-5-3 **PRUDENCE.** Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

22-5-4 **OBJECTIVE.** The primary objective, in order of priority, shall be:

- (A) **Legality.** Conformance with federal, state and other legal requirements.
- (B) **Safety.** Preservation of capital and protection of investment principal.
- (C) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.
- (D) **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the City’s needs for safety, liquidity, rate of return, diversification and its general performance.

22-5-5 **DELEGATION OF AUTHORITY.** Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

22-5-6 **ETHICS AND CONFLICTS OF INTEREST.** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

22-5-7 **AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS.** The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

22-5-8 **AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

22-5-9 **COLLATERALIZATION.** Collateralization may be required, at the discretion of the City, on all funds held in banks or savings and loans above the insured limits provided by the FDIC or FSLIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be a minimum of **one hundred two percent (102%)** of market value of principal and accrued interest.

22-5-10 **SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

22-5-11 **DIVERSIFICATION.** The City shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

22-5-12 **MAXIMUM MATURITIES.** To the extent possible, the City shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than **two (2) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

22-5-13 **INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the City are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (A) Control of collusion.
- (B) Separation of transaction authority from accounting.
- (C) Custodial safekeeping.
- (D) Written confirmation of telephone transactions for investments and wire transfers.

22-5-14 **PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Public Treasurer's Investment Pool (IPTIP).

22-5-15 **REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the City Council and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the City Council. A statement of the market value of the portfolio shall be issued to the City Council quarterly.

22-5-16 **INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

ARTICLE VI – ETHICS CODE

22-6-1 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.

(A) The regulations of Sections 5-15 (**5 ILCS 430/5-15**) and Article 10 (**5 ILCS 430/10-10 through 10-40**) of the State Officials and Employees Ethics Act, **5 ILCS 430/1-1 et seq.**, (hereinafter referred to as the “Act” in this Section) are hereby adopted by reference and made applicable to the officers and employees of the City to the extent required by **5 ILCS 430/70-5**.

(B) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the City, is hereby prohibited.

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the City, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E) For the purposes of this Section, the terms “officer” and “employee” shall be defined as set forth in **5 ILCS 430/70-5(c)**.

(F) The penalties for violations of this Section shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G) This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of City officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of **5 ILCS 430/70-5(a)**.

(H) Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the City.

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the City if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the City.

(Ord. No. 04-01; 05-04-04)

ARTICLE VII - EQUAL EMPLOYMENT POLICY

22-7-1 **ADOPTION OF CODES.** The City hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A) **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B) **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C) **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D) **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E) **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F) **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G) **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H) **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I) **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J) **The Americans with Disabilities Act of 1990** which is a wide-ranging civil rights law that prohibits, under certain circumstances, discrimination based on disability. (K)

Illinois Human Rights Act (775 ILCS 5) which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

22-7-2 **NON-DISCRIMINATORY PRACTICES.** The City will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

22-7-3 **CONTRACTING WITH NON-COMPLAINTS.** The City will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A) The City will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:

- (1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
- (2) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
- (3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
- (4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representatives of the contractor's obligations under the Act and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.
- (5) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
- (6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
- (7) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply

with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

22-7-4 **OUTREACH TO ALL.** The City assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

22-7-5 **MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the City as well as surrounding areas.

22-7-6 **ACCOMMODATIONS FOR DISABLED.** The City will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

22-7-7 **COMPLIANCE BY EMPLOYEES.** All City employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out City program activities.

22-7-8 **DESIGNATED ENFORCERS.** The City designates the Mayor and the City Council to carry out the EEO/AA plan.

(Ord. No. 14-08; 06-03-14)

ARTICLE VIII – POLICY PROHIBITING SEXUAL HARASSMENT

22-8-1 PROHIBITION ON SEXUAL HARASSMENT. It is unlawful to harass a person because of that person’s sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of this City to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

22-8-2 DEFINITION OF SEXUAL HARASSMENT. This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

(A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) Submission to such conduct is made a term or condition of an individual’s employment, either explicitly or implicitly; or
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

(B) Conduct which may constitute sexual harassment includes, but is not limited to:

- (1) **Verbal Harassment.** Sexual innuendoes, suggestive comments, insults, humor, and jokes about: sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements of a sexual nature about other employees, even outside of their presence.
- (2) **Non-verbal Harassment.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, “catcalls”, “smacking” or “kissing” noises.
- (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- (4) **Physical Harassment.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) **Textual/Electronic Harassment.** “Sexting” (electronically sending messages with sexual content, including pictures or video), the use of sexually explicit language, harassment, cyber stalking or threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and posts on social network websites like Facebook and Twitter).

(C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a “reasonable person.”

22-8-3 PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.

(A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible

by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

- (1) **Electronic/Direct Communication.** If there is sexual harassment behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the city manager or administrator, or the chief executive officer of the Municipality.
The employee experiencing what he/she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.
- (3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days**.
- (4) **Allegations Made Against an Elected Official by Another Elected Official.** In addition to the methods of reporting included above, an elected official may request an independent review of a complaint of sexual harassment by another elected official. The request shall be made to the human resources director, the City manager or administrator or the chief elected official of the City. The official receiving the request shall take immediate action in keeping with the procurement process of the City to retain a qualified individual or entity for the independent review of the allegations of sexual harassment in violation of this policy. The outcome of the independent review shall be reported to the corporate authorities.

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the location), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

22-8-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.

(A) No municipal official, municipal agency, municipal employee or municipal office shall take any retaliatory action against any municipal employee or official due to a municipal employee's or official's:

- (1) Disclosure or threatened disclosure of any violation of this policy,
- (2) Providing information related to an investigation or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
- (3) Assistance with or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's or official's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against, even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (**5 ILCS 430/15-10**) provides whistleblower protection from retaliatory action, and this policy prohibits retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, agency, or other employee reasonably believes is in violation of a law, rule, or regulation; or
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, agency or other employee; or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act or this policy.

(E) Pursuant to the Whistleblower Act (**740 ILCS 174/15(a)**), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, before a legislative commission or committee or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (**740 ILCS 174/15(b)**).

(F) According to the Illinois Human Rights Act (**775 ILCS 5/6-101**), it is a civil rights violation for a person, or for two or more people to conspire to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within **three hundred (300) days** of the alleged retaliation.

22-8-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT.

In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Five Thousand Dollars (\$5,000.00)** per offense, applicable disciplinary actions or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

22-8-6 **CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT.** A false report is a report of sexual harassment made by an accuser to accomplish an outcome other than stopping sexual harassment or stopping retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to disciplinary action or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the Illinois State Police, a State's Attorney, the Attorney General or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Five Thousand Dollars (\$5,000.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

(Ord. No. 20-15; 11-17-20)

CHAPTER 23 – MANUFACTURED HOUSING CODE

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CHAPTER 23

MANUFACTURED HOUSING CODE

ARTICLE I – GENERAL PROVISIONS

23-1-1 **DEFINITIONS.** The terms used in this Code shall have the following meanings:

"AFFIDAVIT" means an oath in writing, sworn before and attested by an individual who has authority to administer an oath.

"APPLICANT" means any person making application for a license or permit.

"CORPORATE AUTHORITIES" shall mean the Mayor and the City Council.

"IMMOBILIZED MANUFACTURED HOME": (See Section 40-2-2)

"LICENSE" means a license certificate issued by the City allowing a person to operate and maintain a manufactured home park under the provisions of this Code and the rules and regulations issued hereunder.

"LICENSEE" means any person having a license or permit under this Chapter.

"MANUFACTURED HOME": (See Section 40-2-2)

"MANUFACTURED HOME, DEPENDENT": (See Section 40-2-2)

"MANUFACTURED HOME, DOUBLE-WIDE": (See Section 40-2-2)

"MANUFACTURED HOME, INDEPENDENT": (See Section 40-2-2)

"MANUFACTURED HOME LOT": (See Section 40-2-2)

"MANUFACTURED HOME PAD": (See Section 40-2-2)

"MANUFACTURED HOME PARK": (See Section 40-2-2)

"MANUFACTURED HOME SALES AREA": (See Section 40-2-2)

"MANUFACTURED HOME SPACE": (See Section 40-2-2)

"MANUFACTURED HOUSING UNIT": (See Section 40-2-2)

"MOBILE HOME" means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term **"mobile home"** shall only include homes constructed prior to **June 30, 1976**, not in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**.

"MODULAR HOME": (See Section 40-2-2)

"OWNER" or "OPERATOR" means the licensee.

“PERMANENT FOUNDATION”: A foundation shall be constructed in conformity with **Section 40-2-2** of the Zoning Code or in compliance with the manufacturer’s specifications.

“PERMANENT HABITATION” means a period of **two (2) or more months**.

“PERMIT” means a certificate issued by the Building or Zoning Inspector, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

“PERSON” means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof or any other entity.

“REVOCATION” means to declare invalid a permit or license issued to the applicant or licensee by this City for an indefinite period of time.

“SITE” means the lot on which the manufactured home is located for permanent habitation. **(210 ILCS 115/2.7)**

“SPACE” shall be synonymous with **“Manufactured Home Space”**.

“SUSPENSION” means to declare invalid a permit or license issued to the applicant or licensee by this City for a temporary period of time with an expectation of resumption.

23-1-2 **STATE REQUIREMENTS ADOPTED BY REFERENCE.** The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

23-1-3 **MANUFACTURED HOUSING ACT ADOPTED.** The **Illinois Manufactured Housing and Manufactured Home Act**, as passed and approved by the **Illinois General Assembly** is hereby adopted by the City, the applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the City. **(430 ILCS 115/1 et seq.)**

23-1-4 **ILLINOIS DEPARTMENT OF PUBLIC HEALTH ADOPTED AND REGULATIONS.** The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the City. The applicable provisions as they pertain to the Manufactured Home community shall be controlling within the corporate limits.

23-1-5 **NATIONAL SAFETY STANDARDS.** No manufactured home or immobilized manufactured home shall be located in the City unless the unit has the **National Manufactured Housing Construction and Safety Standards** metal seal affixed thereto.

23-1-6 **SKIRTING.** Skirting shall be used to conceal all underpinning, plumbing, and support piers whether on a permanent foundation or otherwise. All skirting shall be installed on all manufactured housing units within **sixty (60) days** of the placement of the unit.

23-1-7 **FIRE EXTINGUISHERS.** All manufactured housing units located in the City shall be equipped with a fire extinguishing apparatus capable of extinguishing all types of fires. Such extinguishers shall be of sufficient size so that they will reasonably protect the manufactured housing units. All fire extinguishers shall be approved by the Fire Chief or his designated representative prior to installation of the manufactured home. **(425 ILCS 60/1-60/4)**

23-1-8 **INSPECTION.** All Manufactured Housing units located in the City shall be subject to reasonable inspection by an official or officials designated by the City Council.

23-1-9 **OFF-STREET PARKING.** Every owner of a manufactured housing unit shall provide for an off-street parking area of **four hundred (400) square feet.**

23-1-10 **PROHIBITED RESIDENTIAL USES.**
(A) **Dependent Manufactured Home.** It shall be unlawful to locate a dependent manufactured home in the City unless placed in a state-licensed travel trailer park.
(B) **Independent Travel Trailer.** It shall be unlawful to reside in an independent travel trailer in the Municipality unless it is located in a state-licensed travel trailer park.
(C) **Manufactured Home.** It shall be unlawful to locate a manufactured home or a manufactured home in a state-licensed travel trailer park without written permission of the City Council or the Zoning Board.

23-1-11 **CARBON MONOXIDE ALARM DETECTORS.** Each unit shall be equipped with a carbon monoxide alarm detector as prescribed by state statute. **(430 ILCS 135/1 et seq.)**

23-1-12 **SMOKE AND FIRE DETECTORS.** Each unit shall be equipped with smoke and fire detectors as prescribed by state statute.

23-1-13 **CERTIFIED INSTALLER.** All manufactured homes and modular homes shall be installed by licensed Illinois Certified installer.

23-1-14 **MANUFACTURED HOME TRANSPORTERS.** All units mentioned in this Chapter shall be transported or moved by only licensed and insured transport movers in compliance with state statutes.

ARTICLE II - IMMOBILIZED MANUFACTURED HOMES

23-2-1 **IMMOBILIZED MANUFACTURED HOMES.** All immobilized manufactured homes located in the City shall be classified as real estate; therefore, it is mandatory for all persons owning, operating, renting, or leasing an existing manufactured home outside a manufactured home park to remove or cause to have removed the wheels or any other transportation device from the manufactured home. The owner or lessor shall permanently fix it to the ground in a manner that conforms to the definition of an immobilized manufactured home in **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code.

23-2-2 **PERMIT - FEE.** All persons seeking to locate or replace a manufactured home or an immobilized manufactured home outside a manufactured home park shall obtain a **Building or Zoning Permit** from the City Clerk or Zoning Inspector. No utility services shall be connected to the unit until the City has issued the appropriate permits. The fee to locate or relocate a manufactured home or immobilized manufactured home shall be **Twenty-Five Dollars (\$25.00)**. **(See Zoning Code for districts permitting these uses.)**

23-2-3 **LOT SIZE.** The minimum lot size for the location of an immobilized manufactured home unit shall be **seven thousand (7,000) square feet**. All units shall be located in the City according to the requirements and restrictions of this Code. They shall not exceed **twenty-five percent (25%) coverage** of the lot or the requirements of the Zoning Code, if any.

23-2-4 **CONCRETE PADS.** All manufactured homes shall conform to the specifications established by the manufacturer.

23-2-5 **LIMIT OF UNITS.** There shall be **only one (1)** immobilized manufactured home per lot in the City pursuant to the Zoning Code.

ARTICLE III - MANUFACTURED HOME PARKS

DIVISION I - ADMINISTRATION REQUIREMENTS

23-3-1 COMPLIANCE WITH STATUTES, APPLICABILITY OF ARTICLE. Every manufactured home park hereafter established in the City shall, at a minimum, conform to the requirements of:

(A) The Illinois Mobile (Manufactured) Home Park Act and the Mobile (Manufactured) Home Tiedown Act (77 Ill. Adm. Code 870) of the Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

(B) The Manufactured Home Community Code as approved by the Illinois Department of Public Health (1998) is hereby adopted by the City. The applicable provisions as they pertain to Manufactured Home community shall be controlling within the corporate limits.

(C) This Code.

(D) Zoning Code.

In case of conflict between any provisions of the above, the more stringent requirement shall prevail.

23-3-2 PERMITTING AND PLANNING A PARK. Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or a license to operate a manufactured home park.

“Construct or operate a manufactured home park”, as used in this Code shall include, but not necessarily be limited to supplying or maintaining common water, sewer, or other utility supplies or services, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **(All plans shall be submitted to the Plan Commission or Zoning Board for approval prior to the granting of a permit.)**

23-3-3 LOCAL GOVERNMENT REQUIREMENTS. A permit does not relieve the applicant from complying with this Code or other ordinances applicable thereto. **(See Zoning Code, if any.)**

23-3-4 PERMITS. The Plan Commission or the City Council shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **“Manufactured Home Community Code”**, as approved by the **Illinois Department of Public Health**, the City Council or its designee may issue the proper permit to construct or alter a manufactured home park to the applicant. Permits shall be valid for one (1) year from date of issue.

23-3-5 INSPECTION OF MANUFACTURED HOME PARK. Upon completion of the proposed construction of a manufactured home park or the proposed alteration of a manufactured home park, the applicant shall notify the City or the designated official in order that an inspection of the complete facilities can be made.

23-3-6 VIOLATION PROCEEDINGS. Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor or his representative shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with the statutes, or any rules or regulations promulgated by the City

pertaining thereto. The notice shall require the licensee to remove or abate such nuisance, unsanitary or objectionable condition, specified in such notice within **five (5) days** or within a longer period of time as may be allowed by the City Council. If the licensee fails to comply with the terms and conditions of the notice within the time specified or such extended period of time, the Mayor or his representative may revoke or suspend such license.

23-3-7 **INITIAL PERMIT REQUIRED.** Each manufactured home that locates on a lot in a manufactured home park shall secure an initial Building or Zoning Permit from the City. All future locations on the same lot shall be exempt from the fee. **(See Zoning Code)**

23-3-8 - 23-3-9 **RESERVED.**

DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS

23-3-10 **PLAN DOCUMENT.** In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the City a written application and plan documents and such plan documents shall be prepared by a registered engineer or architect licensed to practice in the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the City Clerk to obtain a permit to construct or alter a manufactured home park or an original license to operate a manufactured home park, not previously licensed by the Department. These plans shall include, but not be limited to the design and construction criteria set forth herein. **[The plans should be filed with the Zoning Administrator.]**

23-3-11 **APPLICATION.**

(A) Every applicant shall file with the City Clerk a written application and plan documents for the proposed construction or alteration of a manufactured home park.

(B) The application shall be completed by the applicant and the engineer or architect and shall include:

- (1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of the filing of the application. If the applicant is a corporation, a copy of the certificate of incorporation must be filed with the application.
- (2) The proposed method of lighting the structures and land upon which the manufactured home park is to be located.
- (3) The plot plans of the manufactured home park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities or the proposed alterations in existing facilities.
- (4) An affidavit of the applicant as to the truth of the matters contained in the application shall be attached.
- (5) Each application shall be accompanied by an application fee of **Three Hundred Dollars (\$300.00)** for a permit to construct, or an application fee of **One Hundred Fifty Dollars (\$150.00)** for a permit to alter to increase the size of the park.

23-3-12 **LOCATION.**

(A) Sites selected for manufactured home development shall be well-drained and free from topographical or geological hinderances and from other conditions unfavorable to a proper residential environment. The manufactured home development shall not be located near swamps, wetlands, marshes, or other breeding places of insects, rats, mice or other rodents. When a good, natural drainage is not available, storm water drainage shall be provided and such drainage shall not endanger any water supply or surface watercourse.

(B) The City Council may authorize a site survey to ascertain that the proposed location complies with the above requirements. **(See Flood Plain and Zoning Codes.)**

23-3-13 **ROADWAYS AND PARKING.**

(A) All streets and driveways in every park shall be constructed in compliance with the Subdivision Code street specifications in **Chapter 34.**

(B) All streets in parks constructed shall have a minimum right-of-way of **fifty (50) feet** and a minimum road width of **thirty-two (32) feet** for the purpose of this Code, and shall be considered private streets to be maintained by the park owner or operator.

 If a manufactured home park has more than **fifty (50) units**, a wider street may be required by the corporate authorities.

(C) Sidewalks and walkways shall be constructed abutting a street in a manufactured home park and shall be a minimum of **four (4) feet** in width; provided, however, there shall be no minimum width requirement for sidewalks for each individual lot. No portion of a manufactured home shall block, in any way, the pedestrian traffic on the walkways.

23-3-14 - 23-3-16 **RESERVED.**

DIVISION III - GENERALLY

23-3-17 **LOT SIZE.** The minimum lot size for a manufactured home pad shall be **seven thousand (7,000) square feet**, with a minimum frontage of **sixty (60) feet**.

23-3-18 **MISCELLANEOUS RESTRICTIONS.**

(A) No manufactured home unit parked in a manufactured home park shall be immobilized.

(B) Not more than **one (1) manufactured home unit** shall be parked in **one (1)** space.

(C) No travel-trailer shall be permitted in any manufactured home park, unless a special area has been approved for that purpose by the City Council and the Zoning Board.

23-3-19 - 23-3-20 **RESERVED.**

DIVISION IV - FEES

23-3-21 **LICENSE FEE.** The annual license fee per manufactured home park shall be **Fifty Dollars (\$50.00)**, and shall be due and payable **on or before May 1st of each year.** The City Clerk shall notify the owner or operator of the annual fee at least **thirty (30) days** prior to **May 1st.**

CHAPTER 24 – MOTOR VEHICLE CODE

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CHAPTER 24

MOTOR VEHICLE CODE

ARTICLE I – DEFINITIONS

24-1-1 **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City, the provisions thereof shall be controlling within the corporate limits of the City. **(65 ILCS 5/1-3-2)**

ARTICLE II - GENERAL REGULATIONS

24-2-1 **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, Auxiliary Police and Marshals assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(625 ILCS 5/11-203)**

24-2-2 **SCENE OF FIRE.** The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

24-2-3 **SIGNS AND SIGNALS.** It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **Schedule "V" - Signs and Signals** shall be an integral part of this Section. **(625 ILCS 5/11-301)**

24-2-4 **UNAUTHORIZED SIGNS.** No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

24-2-5 **INTERFERENCE WITH SIGNS OR SIGNALS.** It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

24-2-6 **ADVERTISING SIGNS.** It shall be unlawful to maintain anywhere in the City any sign, signal, marking or device other than a traffic sign or signal authorized by the City Council or the Illinois State Department of Transportation Division of Highways, 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)**

24-2-7 **ANIMALS OR BICYCLES.** Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(625 ILCS 5/11-206)**

24-2-8 **LAMPS AND OTHER EQUIPMENT ON BICYCLES.**

(A) Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least **five hundred (500) feet** to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances of **one hundred (100) feet to six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of **five hundred (500) feet** to the rear may be used in addition to the red reflector.

(B) A bicycle shall not be equipped with, nor shall any person use any siren upon a bicycle.

(C) Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.

(D) No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector or conforming to specifications prescribed by the State on each pedal, visible from the front and rear of the bicycle during darkness from a distance of **two hundred (200) feet.**

(E) No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of **five hundred (500) feet** and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall be at least **three-sixteenths (3/16) of an inch** wide on each side of each tire or rim to indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim. Such reflectors shall conform to specifications prescribed by the State.

(F) No person shall sell or offer for sale a new bicycle that is not equipped with an essentially colorless front-facing reflector.

(G) Any person charged with a violation of this section shall upon conviction, be fined in accordance with Section 1-1-20 of the City Code. **(625 ILCS 5/11-1507)**

ARTICLE III - STOP AND THROUGH STREETS

24-3-1 **THROUGH STREETS.** The streets and parts of streets of the City designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

24-3-2 **ONE-WAY STREETS OR ALLEYS.** It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(625 ILCS 5/11-208)**

24-3-3 **STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "C"** for designated stop intersections. **(625 ILCS 5/11-302)**

24-3-4 **YIELD RIGHT-OF-WAY STREETS.** The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **See Schedule "D" for yield right-of-way streets.**

24-3-5 **POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(625 ILCS 5/11-304)**

ARTICLE IV - DRIVING RULES

24-4-1 **ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 11**, entitled "**Rules of the Road**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City except for the following changes, deletions and omissions:

- (A) **Omissions:**
- (1) Omit Sections 11-207, 11-208.1, 11-208.2, 11-209.1, 11-302, 11-303, 11-310(f), 11-313, 11-401 to and including 11-416, 11-500 to and including 11-502, 11-602, 11-603, 11-604, 11-606(b), 11-608, 11-1419, and 11-1422.
- (B) **Changes and Additions:**
- (1) Change 11-904(a) to read: "Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized by this Code."
- (2) Change 11-1416(a) to read: "Any person who shall willfully and unnecessarily attempt to delay, hinder or obstruct any other person in lawfully driving and traveling upon or along any highway within this State or who shall offer for barter or sale, merchandise on said highway so as to interfere with the effective movement of traffic shall, upon conviction, be guilty of a violation of this Code."

24-4-2 **DRIVING RULES.**

(A) **Careless Driving.** It shall be unlawful to operate a vehicle in the City in a careless manner so as to interfere with the safe or lawful operation of any other vehicle or so as to interfere with or to injure, damage, or endanger persons or property engaged in the lawful use of the street.

(B) **Drag Racing Unlawful.** No person shall be a participant in drag racing as defined in **Section 5/11-504 of the Illinois Compiled Statutes.**

(C) **Fleeing or Attempting to Elude Police Officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D) **Unlawful Possession of Highway Sign or Marker.** The Department of Local Authorities with reference to traffic-control signals, signs or markers owned by the Department of Local Authorities are authorized to indicate the ownership of such signs, signals or markers on the back of such devices in letters not less than **three-eighths (3/8) of an inch** or more than **three-fourths (3/4) of an inch** in height, by use of a metal stamp, etching or other permanent means and except for employees of the Department of Local Authorities, police officers, contractors and their employees engaged in highway construction, contract or work on the highway approved by the Department of Local Authorities, it is a violation of this Chapter for any person to possess such sign, signal or marker so identified. **(625 ILCS 5/11-313)**

(E) **Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this section, proof of the determination of the maximum speed by the City and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(625 ILCS 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the City Council, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. See **Schedule "E"** for applicable speed zones. **(625 ILCS 5/11-604)**

(G) **Special Speed Limit While Passing Schools.** No person shall drive a motor vehicle at a speed in excess of **twenty miles per hour (20 MPH)** while passing a school zone or while traveling upon any public thoroughfare on or across which children pass going to and from school during school days when school children are present.

This section shall not be applicable unless appropriate signs are posted upon streets and maintained by the City or State wherein the school zone is located. School crosswalk signals are hereby listed in **Schedule "F"**. **(625 ILCS 5/11-605)**

(H) **Failure to Reduce Speed.** A vehicle shall be driven upon the streets and alleys of this City at a speed which is reasonable and proper with regard to traffic conditions and the use of the street or alley. The fact that the vehicle does not exceed the applicable maximum speed limit does not relieve the driver of the duty to decrease speed when approaching and crossing an intersection or when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(I) **Traffic Lane Usage.** Whenever any roadway within the City has been divided into **two (2)** or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(J) **U-Turns Prohibited.** No driver of a vehicle shall make a "U-turn" on any street or at any intersection of any streets in the City.

24-4-3 **DUTY TO REPORT ACCIDENT.** The driver of a vehicle which is in any manner involved in an accident within the City shall, without unnecessary delay, notify the Police Department and shall make a report of such action. Failure to report an accident within the City within **twenty-four (24) hours** shall result in arrests of the person or persons involved. **(625 ILCS 5/11-415)**

24-4-4 **TRANSPORTING LIQUOR IN VEHICLES.** No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle in this City except in the original container and with the seal unbroken. **(625 ILCS 5/11-502)**

24-4-5 **EXCESSIVE NOISE - STOPPED VEHICLE.** No operator of a motor vehicle shall, when the motor vehicle is stopped, unreasonably accelerate the engine thereof with the gears of the vehicle in neutral, thereby causing an unreasonably loud or excessive noise.

24-4-6 **EXCESSIVE NOISE - WHEELS.** No operator of a motor vehicle shall when the motor vehicle is stopped, accelerate the engine with the gears of such vehicle in neutral and while so accelerating the engine, shift the gears of the vehicle into a forward or reverse movement, thereby causing an unreasonably loud noise with the drive wheels of the vehicle.

24-4-7 **EXCESSIVE NOISE - SQUEALING TIRES.** No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(625 ILCS 5/11-505)**

24-4-8 **RECKLESS, NEGLIGENT OR CARELESS DRIVING.** It shall be unlawful to operate any vehicle in the City in a careless, reckless, negligent or wanton manner, or carelessly so as to endanger life or property.

24-4-9 **EXCESSIVE NOISE WHILE DRIVING.** No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

24-4-10 **ELECTRONIC COMMUNICATION DEVICES.** As defined in this Section, "electronic communication device" means an electronic device, including but not limited to a hand-held wireless telephone, hand-held personal digital assistant, or a portable or mobile computer, but does not include a global positioning system or navigation system or device that is physically or electronically integrated into the motor vehicle.

(A) **Prohibited Use.** A person may not operate a motor vehicle on any street or other public way while using an electronic communication device. The term "use" shall include without limitation:

- (1) Talking or listening to another person on the telephone;
- (2) Text messaging;
- (3) Sending, reading or listening to an electronic message;
- (4) Browsing the internet.

(B) **Exemptions.** This Section does not apply to:

- (1) A law enforcement officer or operator of emergency vehicle while performing his or her official duties;
- (2) A driver using an electronic communication device for the sole purpose of reporting an emergency situation and continued communication with emergency personnel during an emergency situation;
- (3) A driver using an electronic communication device in a hands-free or voice operated mode, which may include the use of a headset;
- (4) A driver of commercial motor vehicle reading a message displayed on a permanently installed communication device designed for a commercial motor vehicle with a screen that does not exceed **ten (10) inches** tall by **ten (10) inches** wide in size;
- (5) A driver using an electronic communication device while parked on the shoulder of a roadway;
- (6) A driver using an electronic communication device when the vehicle is stopped due to normal traffic being obstructed and the driver has the motor vehicle transmission in neutral or park;
- (7) A driver using two-way or citizens band radio services;
- (8) A driver using two-way mobile radio transmitters or receivers for licensees of the Federal Communications Commission in amateur radio service;
- (9) A driver using an electronic communication device by pressing a single button to initiate or termination a voice communication;
- (10) A driver using an electronic communication device capable of performing multiple functions, other than a hand-held wireless telephone or hand-held personal assistant for a purpose that is not otherwise prohibited in this Section.

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 **ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12**, entitled "**Equipment of Vehicles**", as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the City and the provisions thereof shall be controlling within the corporate limits of the City. **(625 ILCS 5/12-605, 5/12-605.1; and 5/12-605.2)**

24-5-2 **MUFFLER.** No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(625 ILCS 5/12-602)**

24-5-3 **SOUND AMPLIFICATION SYSTEMS.** No driver of any motor vehicle within this City shall operate or permit operation of any sound amplification system which can be heard outside the vehicle from **seventy-five (75) feet** or more when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. This Section shall not apply to authorized emergency vehicles. **(625 ILCS 5/12-611)**

24-5-4 **EXCESSIVE ENGINE BRAKING NOISE PROHIBITED.** It shall be unlawful for the operator of a commercial vehicle as defined in **625 ILCS 5/1-111.8** to operate or actuate any engine braking system within the City that emits excessive noise unless it is an emergency. The Superintendent is authorized and directed to post signs stating: "**EXCESSIVE ENGINE BRAKING NOISE PROHIBITED**" at appropriate locations. **(625 ILCS 5/12-602.1)**

ARTICLE VI - PARKING RULES

24-6-1 **TIME LIMIT PARKING.** It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

24-6-2 **PARKING FOR SALE, REPAIR OR PEDDLING PROHIBITED.** No person shall park a vehicle upon any street for the purpose of:

- (A) displaying such vehicle for sale; or
- (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary; or
- (C) peddling merchandise.

24-6-3 **PRIVATE PROPERTY.** It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

24-6-4 **STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.**

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

- (1) **Stop, Stand or Park a Vehicle:**
 - (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (b) On a sidewalk.
 - (c) Within an intersection.
 - (d) On a crosswalk.
 - (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
 - (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
 - (h) On any railroad tracks.
 - (i) At any place where official signs prohibit stopping.
 - (j) On any controlled-access highway.
 - (k) In the area between roadways of a divided highway, including crossovers.
 - (l) In any alley that is open and maintained.
- (2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):
 - (a) In front of a public or private driveway.
 - (b) Within **fifteen (15) feet** of a fire hydrant.
 - (c) Within **twenty (20) feet** of a crosswalk at an intersection.
 - (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.
 - (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).

- (f) At any place where official signs prohibit standing or parking.
- (3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):
 - (a) within **fifty (50) feet** of the nearest rail of a railroad crossing;
 - (b) at any place where official signs prohibit parking;
 - (c) in yellow zones.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
- (C) Schedules "G", "H" and "I" shall list all applicable no-parking zones, in addition to the no parking provisions of **Section 24-6-3(D)**. (Ord. No. 03-04; 04-01-03)
- (D) No motor vehicle weighing in excess of **eight thousand (8,000) pounds** gross weight or semi-tractor trailer of any weight shall stand or park, whether occupied or not, on any City or City-maintained street or alley, except to momentarily pick up or discharge passengers or to make deliveries. Signs prohibiting such parking shall not be required. (Ord. No. 03-04; 04-01-03)
(625 ILCS 5/11-303)

24-6-5 PARKING FOR THE HANDICAPPED.

- (A) **Designated Parking.** Certain parking spaces within the confines of the City shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.
- (B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the City.
- (C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. (625 ILCS 5/11-1301.2)
- (D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency of a City Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes.** The registered owner of the vehicle as ascertained by the registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **Two Hundred Fifty Dollars (\$250.00)**. 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 "J"**.

24-6-6 LOAD LIMITS.

- (A) **Established.** There is hereby established "gross load limit" of **eight (8) tons** on all City streets except those listed in **Schedule "K"**. The term "gross load limit" shall mean the total weight of a vehicle and the load it is carrying.
- (B) **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.
Any vehicle weighing in excess of **ten thousand (10,000) pounds** gross weight shall not be permitted to park or stop for the purpose of delivery in Main Street; such vehicles shall be required to use the rear entrances of the business buildings located on said street for the purpose of pickup and delivery.

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 if such fine or fines are not paid within five (5) days, the following additional penalties shall be due, which shall be in addition to the fines provided herein:

<u>Overdue Period</u>	<u>Additional Penalty</u>
5-10 days	\$10.00 plus \$10.00
11-15 days	20.00 plus 10.00
16-25 days	30.00 plus 10.00

Such payment may be made at the Police Station 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 an entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is housed or kept, 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 **one (1) hour** 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 provided in Appendix "A".

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 streets at any time within **eighteen (18) hours** after a snowfall of **three (3) inches** or more, unless the street has been cleared of snow as designated in **Schedule "L"**.

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, LOST, STOLEN OR
UNCLAIMED VEHICLES**

24-7-1 ABANDONMENT OF VEHICLES PROHIBITED.

(A) The abandonment of a vehicle or any part thereof on any highway in this City is unlawful and subject to penalties as set forth under **Section 1-1-20** of this Code.

(B) The abandonment of a vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this City is unlawful except on property of the owner or bailee of such abandoned vehicle. A vehicle or any part thereof so abandoned on private property shall be authorized for removal, by the City, after a waiting period of **seven (7) days** or more, or may be removed immediately if determined to be a hazardous dilapidated motor vehicle under Section 5/11-40-3.1 of the Illinois Municipal Code. A violation of subsections (A) or (B) of this Section is subject to penalties as set forth under **Section 1-1-20** of this Code.

(C) A towing service may begin to process an unclaimed vehicle as abandoned by requesting a record search by the Secretary of State up to **ten (10) days** after the date of the tow, or any later date acceptable to the Secretary of State. This paragraph shall not apply to vehicles towed by order or authorization of the City or a law enforcement agency. **(625 ILCS 5/4-201)**

**24-7-2 ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLE NOTIFICATION
TO LAW ENFORCEMENT AGENCIES.**

When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person in this City, not the owner of the vehicle, such person shall immediately notify the municipal police when the vehicle is within the corporate limits of any City having a duly authorized police department, or the State Police or the county sheriff when the vehicle is outside the corporate limits of the City. Upon receipt of such notification, the municipal police will authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow as set forth in **625 ILCS 5/4-204** for law enforcement agencies, until the vehicle is claimed by the owner or any other person legally entitled to possession thereof or until it is disposed of as provided in this Code. **(625 ILCS 5/4-202)**

**24-7-3 REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES; TOWING OR
HAULING AWAY.**

(A) When a vehicle is abandoned on a highway in an urban district **ten (10) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(B) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for **twenty-four (24) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(C) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

24-7-4 POLICE TOWS; REPORTS, RELEASE OF VEHICLES, PAYMENT. When a vehicle is authorized to be towed away as provided in **Section 24-7-2** or **24-7-3**:

(A) The authorization, any hold order, and any release shall be in writing, or confirmed in writing, with a copy given to the towing service.

(B) The police headquarters or office of the law officer authorizing the towing shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, Vehicle Identification Number, license plate year and number and registration sticker year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow.

(C) The owner, operator, or other legally entitled person shall be responsible to the towing service for payment of applicable removal, towing, storage, and processing charges and collection costs associated with a vehicle towed or held under order or authorization of the law enforcement agency. If a vehicle towed or held under order or authorization of a law enforcement agency is seized by the ordering or authorizing agency or any other law enforcement or governmental agency and sold, any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the proceeds of the sale. If applicable law provides that the proceeds are to be paid into the treasury of the appropriate civil jurisdiction, then any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the treasury of the civil jurisdiction. That payment shall not, however, exceed the amount of proceeds from the sale, with the balance to be paid by the owner, operator, or other legally entitled person.

(D) Upon delivery of a written release order to the towing service, a vehicle subject to a hold order shall be released to the owner, operator, or other legally entitled person upon proof of ownership or other entitlement and upon payment of applicable removal, towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-204)**

24-7-5 RECORD SEARCHES FOR UNKNOWN OWNER.

(A) When a law enforcement agency authorizing the impounding of a vehicle does not know the identity of the registered owner, lienholder or other legally entitled person, that law enforcement agency will cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State for the purpose of obtaining the required ownership information.

(B) The law enforcement agency authorizing the impounding of a vehicle will cause the stolen motor vehicle files of the State Police to be searched by a directed communication to the State Police for stolen or wanted information on the vehicle. When the State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the State Police. The information determined from these record searches will be returned to the requesting law enforcement agency for that agency's use in sending a notification by certified mail to the registered owner, lienholder and other legally entitled persons advising where the vehicle is held, requesting a disposition be made and setting forth public sale information. Notification shall be sent no later than **ten (10) business days** after the date the law enforcement agency impounds or authorizes the impounding of a vehicle, provided that if the law enforcement agency is unable to determine the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle within a **ten (10) business day period** after impoundment, then notification shall be sent no later than **two (2) days** after the date the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle is determined. Exceptions to a notification by certified mail to the registered owner, lienholder and other legally entitled persons are set forth in **625 ILCS 5/4-209**.

(C) When ownership information is needed for a towing service to give notification as required under this Code, the towing service may cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State.

The written request of a towing service, in the form and containing the information prescribed by the Secretary of State by rule, may be transmitted to the Secretary of State in person, by U.S. Mail or other delivery service, by facsimile transmission, or by other means the Secretary of State deems acceptable.

The Secretary of State shall provide the required information, or a statement that the information was not found in the vehicle registration records of the State, by U.S. Mail or other delivery service, facsimile transmission, as requested by the towing service, or by other means acceptable to the Secretary of State.

(D) The Secretary of State may prescribe standards and procedures for submission of requests for record searches and replies via computer link.

(E) Fees for services provided under this Section shall be in amounts prescribed by the Secretary of State under Section 3-821.1 of the Illinois Municipal Code. Payment may be made by the towing service using cash, any commonly accepted credit card, or any other means of payment deemed acceptable by the Secretary of State. **(625 ILCS 5/4-205)**

24-7-6 IDENTIFYING AND TRACING OF VEHICLE. When the registered owner, lienholder or other person legally entitled to the possession of a vehicle cannot be identified from the registration files of this State or from the registration files of a foreign state, if applicable, the law enforcement agency having custody of the vehicle shall notify the State Police, for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. The information obtained by the State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification purposes as set forth in **Section 24-7-5** of this Code. **(625 ILCS 5/4-206)**

24-7-7 RECLAIMED VEHICLES; EXPENSES.

(A) Any time before a vehicle is sold at public sale or disposed of as provided in **Section 24-7-8**, the owner, lienholder or other person legally entitled to its possession may reclaim the vehicle by presenting to the law enforcement agency having custody of the vehicle proof of ownership or proof of the right to possession of the vehicle.

(B) No vehicle shall be released to the owner, lienholder, or other person under this Section until all towing, storage, and processing charges have been paid. **(625 ILCS 5/4-207)**

24-7-8 DISPOSAL OF UNCLAIMED VEHICLE.

(A) When an abandoned, lost, stolen or unclaimed vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder or other legally entitled person for a period of **thirty (30) days** after notice has been given as provided in **Sections 24-7-5** and **24-7-6** of this Article, the law enforcement agency or towing service having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automotive parts recycler, rebuilder or scrap processor under **Article 5 of Chapter 625 of the Illinois Compiled Statutes** or the towing operator which towed the vehicle. Notice of the time and place of the sale shall be posted in a conspicuous place for at least **ten (10) days** prior to the sale on the premises where the vehicle has been impounded. At least **ten (10) days** prior to the sale, the law enforcement agency where the vehicle is impounded, or the towing service where the vehicle is impounded, shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner, lienholder, or other legally entitled persons. Notice as provided in **Sections 24-7-5** and **24-7-6** of this Article as provided in this Section shall state the time and place of sale and shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled persons to reclaim the vehicle.

(B) If an abandoned, lost, stolen, or unclaimed vehicle displays dealer plates, notice under this Section and **Section 24-7-9** of this Code shall be sent to both the dealer and the registered owner, lienholder, or other legally entitled persons.

(C) In those instances where the certified notification specified in **Section 24-97-5** and **24-7-6** of this Article has been returned by the postal authorities to the law enforcement agency or towing service, the sending of a second certified notice will not be required. **(625 ILCS 5/4-208)**

24-7-9 DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE.

(A) **New Car.** When the identity of the registered owner, lienholder, or other person legally entitled persons of an abandoned, lost, or unclaimed vehicle of **seven (7) years** of age or newer cannot be determined by any means provided for in this Article, the vehicle may be sold as provided for in **Section 24-7-8** without notice to any person whose identity cannot be determined.

(B) **Old Car.** When an abandoned vehicle of more than **seven (7) years** of age is impounded as specified by this Article, or when any such vehicle is towed at the request or with the consent of the owner or operator and is subsequently abandoned, it will be kept in custody or storage for a minimum of **ten (10) days** for the purpose of determining the identity of the registered owner, lienholder, or other legally entitled persons and contacting the registered owner, lienholder, or other legally entitled persons by the U.S. Mail, public service or in person for a determination of disposition; and an examination of the State Police stolen vehicle files for theft and wanted information. At the expiration of the **ten (10) day** period, without the benefit of disposition information being received from the registered owner, lienholder, or other legally entitled persons, the vehicle may be disposed of in either of the following ways:

(1) The law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk or salvage.

(2) The towing service may sell the vehicle in the manner provided in **Section 24-7-8** of this Article, provided that the paragraph shall not apply to vehicles towed by order or authorization of a law enforcement agency.

(C) **Antique Vehicle.** A vehicle classified as an antique vehicle, custom vehicle, or street rod may, however, be sold to a person desiring to restore it. **(625 ILCS Sec. 5/4-209)**

24-7-10 DISPOSAL OF HAZARDOUS DILAPIDATED MOTOR VEHICLES. Any hazardous dilapidated motor vehicle impounded pursuant to the provisions of this Article and **65 ILCS 5/11-40-3.1**, whether impounded at a public facility or on the property of private towing service, shall be kept in custody for a period of **ten (10) days** for the purpose of determining the identity of the registered owner or lienholder and contacting such owner or lienholder, if known, by regular U.S. Mail. At the expiration of the **ten (10) day** period, without benefit of disposition information being received from the registered owner or lienholder, the law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk. **(65 ILCS 5/4-209.1)**

24-7-11 COLLECTION OF UNPAID CHARGES. In an action to collect towing, storage, and processing charges that remain unpaid after disposition of a vehicle towed or relocated under this Code, the towing service may recover reasonable collection costs.

24-7-12 POLICE RECORD FOR DISPOSED VEHICLE. When a vehicle in the custody of the City or law enforcement agency is reclaimed by the registered owner, lienholder or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Article, a report of the transaction will be maintained by that law enforcement agency for a period of **one (1) year** from the date of the sale or disposal. **(625 ILCS 5/4-210)**

24-7-13 PUBLIC SALE PROCEEDS; DISPOSITION OF.

(A) When a vehicle located within the corporate limits is authorized to be towed away by a law enforcement agency having jurisdiction and disposed of as set forth in this Article, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the treasury of the City.

(B) The provisions of this Section shall not apply to vehicles disposed of or sold at public sale under subsection (k) of **625 ILCS 5/4-107** of the Illinois Vehicle Code. **(625 ILCS 5/4-211)**

24-7-14 LIABILITY OF LAW ENFORCEMENT OFFICERS.

(A) A law enforcement officer or agency, a department of municipal government designated under **625 ILCS 5/4-212.1** or its officers or employees, or a towing service owner,

operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Article.

(B) A towing service, and any of its officers or employees, that removes or tows a vehicle as a result of being directed to do so by a law enforcement officer or agency or a department of municipal government or its officers or employees shall not be held to answer or be liable for injury to, loss of, or damages to any real or personal property that occurs in the course of the removal or towing of a vehicle or its contents on a limited access highway in a designated Incident Management Program that uses fast lane clearance techniques as defined by the Department of Transportation. **(625 ILCS 5/4-213)**

24-7-15 **VIOLATIONS OF ARTICLE.**

(A) Any person who violates **Section 24-7-1** of this Article or who aids and abets in that violation:

- (1) shall be subject to a mandatory fine of **Five Hundred Dollars (\$500.00)**; and
- (2) shall be required by the court to make a disposition on the abandoned or unclaimed vehicle and pay all towing, storage, and processing charges and collection costs pursuant to **Section 24-7-3(A) and (E)**.

(B) When a vehicle is abandoned, it shall be presumed that the last registered owner is responsible for the abandonment and shall be liable for all towing, storage, and processing charges and collection costs, less any amounts realized in the disposal of the vehicle. The last registered owner's liability for storage fees may not exceed a maximum of **thirty (30) days'** storage fees.

The presumption established under this paragraph may be rebutted by a showing that, prior to the time of the tow:

- (1) a report of vehicle theft was filed with respect to the vehicle; or
- (2) the vehicle was sold or transferred and the last registered owner provides the towing service with the correct identity and address of the new owner at the time of the sale or transfer.

If the presumption established under this Section is rebutted, the person responsible for theft of the vehicle or to whom the vehicle was sold or transferred is liable for all towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-214)**

ARTICLE VIII – GROSS LOAD LIMITS

24-8-1 **MAYOR DECLARES.** Whenever the Mayor shall decide that the condition of the weather is such that heavy traffic will cause substantial damage to the streets of the City it shall be the duty of the Mayor to issue an order that no vehicle having a gross weight of **sixteen thousand (16,000) pounds** or more, including load, shall be operated on any of the streets.

24-8-2 **ORDER IN WRITING.** The order shall be in writing, signed by the Mayor, and bearing the corporate seal, and shall be filed with the City Clerk.

24-8-3 **TIME PARAMETERS OF ORDER.** The order shall be in effect from and after such filing and the posting of signs hereinafter mentioned, until a further order canceling the order shall be made and filed with the City Clerk by the Mayor, or by the City Council, and the signs are removed pursuant to such further order. The total period of time such order(s) shall be in effect shall not exceed **ninety (90) days** in any **one (1) calendar year**.

24-8-4 **POSTING OF ORDER.** The order shall be made known to the public by the posting of a sign which sign shall read: **“Traffic gross weight limit 8 tons – strictly enforced – By order of City of Newton”**.

24-8-5 **SIGN PURCHASE.** The signs shall be procured, as needed, by the Mayor, at the expense of the City, and shall be posted and removed by the Street Department, as directed by the Mayor.

24-8-6 **UNLAWFUL WEIGHT.** It shall be unlawful to drive any vehicle having a gross weight, including load, of **sixteen thousand (16,000) pounds** or more on any street at the entrance to which one of said signs is posted as aforesaid from the time said sign is posted as aforesaid until the same is removed by proper authority, unless the driver shall possess a valid permit as hereafter provided for.

24-8-7 **DEFACE SIGN.** It shall be unlawful to willfully deface or remove any of said signs without proper authority.

24-8-8 **ILLINOIS VEHICLE CODE.** That so much of the Illinois Vehicle Code as authorizes and regulates the application for an issuance of special permits; fee schedules with regards thereto and the prerequisite posting of security necessary and adequate to compensate for any injury to any roadway or road structure, be, and hereby is, adopted in its entirety by this local authority, after careful deliberation, as the standard for issuing special permits in exception to existing vehicle weight restrictions in this City, **625 ILCS 5/11-208(a), (7) and (15)**.

24-8-9 **SPECIAL PERMITS.** Pursuant to said authorization and regulations, the Street Department Head, as the local official charged with the responsibility for maintaining the roads of this City in good condition, shall have the power, in his discretion, upon application and for good cause shown, to issue special permits authorizing the applicants to operate or move vehicles or combinations of vehicles of a size or weight of vehicle or load exceeding the maximum authorized by this Article or otherwise.

24-8-10 **SPECIAL PERMIT FROM CITY.** The City Collector is authorized to collect in advance, and as a prerequisite to the issuance of a special permit, security deposits according to the following schedule:

<u>AMOUNT</u>	<u>MILES OF CITY STREET TRAVERSED</u>
\$600.00	2 blocks or less
\$1,200.00	More than 2 blocks, bur less than 4 blocks
\$2,400.00	4 blocks or more

24-8-11 **STREET DAMAGE.** In the event the damage done to the street is in excess in the amount deposited, nothing in this Section precludes the City from seeking compensation for the full amount of damage by the overweight vehicle.

24-8-12 **PENALTIES.** The penalties for violation of this Article be assessed as follows:
 For violation of gross weight limits:
 (A) Exceeding the posted or permit gross vehicle weight by not more than **three thousand (3,000) pounds: Six Cents (6¢)** per pound of excess weight.
 (B) Exceeding the posted or permit gross vehicle weight by **three thousand (3,000) pounds** but not more than **four thousand (4,000) pounds: Eight Cents (8¢)** per pound of excess weight.
 (C) Exceeding the posted or permit gross vehicle weight by **four thousand (4,000) pounds** but not more than **five thousand (5,000) pounds: Ten Cents (10¢)** per pound of excess weight.
 (D) Exceeding the posted or permit gross vehicle weight by **five thousand (5,000) pounds** or more: **Twelve Cents (12¢)** per pound of excess weight.

Additionally, whenever any vehicle is operated in violation of gross weight limits, whether regular or special, the violator, in addition to penalties as set forth herein, shall be subject to a fine of not to exceed **Seven Hundred Fifty Dollars (\$750.00)** and for damages to road occasioned by said violation.

24-8-13 **JAMES ADDITION – 8 TON LIMIT.** All streets in James Addition to the City of Newton, Illinois, shall be permanently posted for an **eight (8) ton** load limit thereon, so as to limit the weight of trucks or other commercial vehicles thereon.

24-8-14 **SPECIAL TRUCK ROUTES – 40 TONS.**
 (A) **Gregory Drive.** South Gregory Drive from Illinois Route 33 South approximately 0.125 miles in the City is herewith designated as a 80,000 pound truck route, Class II as defined by the Illinois Department of Transportation. **(Ord. No. 99-1; 06-01-99)**
 (B) **Morgan Street.** Morgan Street from Illinois Route 33/130 West to Scott Street all in the City is herewith designated as an 80,000 pound truck route, Class II as defined by the Illinois Department of Transportation. **(Ord. No. 98-5; 03-17-98)**
 (C) **Industrial Drive and Commercial Avenue.** Industrial Drive and Commercial Avenue approximately 0.641 miles all in the City are herewith designated as an 80,000 pound truck route, Class II as defined by the Illinois Department of Transportation. **(Ord. No. 2000-2; 03-21-00)**

(Ord. No. 97-18; 11-18-97)

ARTICLE IX - GOLF CARTS AND NEIGHBORHOOD VEHICLES

24-9-1 **DEFINITIONS.**

(A) For purposes of this Article, a "golf cart" is defined in **625 ILCS 5/11-1428(d)** and means a vehicle specifically designed and intended for the purposes of transporting **one (1)** or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf, or maintaining the condition of the grounds on a public or private golf course.

(B) For purposes of this Article, a "neighborhood vehicle" shall be defined as provided in **625 ILCS 5/11-1426.1(a)** and shall mean a self-propelled, electronically powered four-wheeled motor vehicle (or a self-propelled-gasoline powered four-wheeled motor vehicle with an engine displacement under 1200 cubic centimeters) which is capable of obtaining in **one (1) mile** a speed of more than **twenty (20) miles per hour**, but not more than **twenty-five (25) miles per hour**, and which conforms to Federal Regulations under Title 49 C.F.R. Part 571.500.

(C) For purposes of this Article, a "golf cart" and a "neighborhood vehicle" specifically does not include all-terrain vehicles, off-highway motorcycles and any other vehicle which is not described within the foregoing definitions of "golf carts" or "neighborhood vehicles".

(D) "City Streets" shall mean only those City Streets designated on Exhibit "A" attached hereto and incorporated herein by this reference located within the boundaries of the City.

(E) "State roads" include Illinois Route 33 and Illinois Route 130.

(F) "County roads" include any roads outside the boundaries of the City limits.

24-9-2 **REQUIREMENTS.** All persons operating a golf cart or neighborhood vehicle on the designated streets of the City must comply with the following requirements:

(A) Proof of liability insurance.

(B) Must display City decal on front and rear.

(C) Must be inspected by City Police Chief or designated representative.

(D) Must have valid driver's license.

(E) Must be equipped with seatbelts, a windshield, horn, brakes, turn signals, a steering wheel apparatus, tires, a rearview mirror, red reflectorized warning devices in the front and rear, a slow moving vehicle emblem (as required of other vehicles in **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 and turn signals. When operated on a roadway, a golf cart or a neighborhood vehicle shall have its headlight and tail lamps lighted.

(F) Must obey all traffic laws of State of Illinois and City.

(G) Must be **eighteen (18) years** of age or older. (**Ord. No. 15-11; 09-01-15**)

(H) Can be driven on only those streets designated on Exhibit A attached hereto.

(I) No modification to the suspension of the golf cart or the neighborhood vehicle.

(J) Must not exceed **twenty (20) miles per hour**.

(K) Crossing of State highway when authorized by the State of Illinois Department of Transportation.

(L) May only operate on City Streets designated on Exhibit A with the exception of authorized crossing of State and County Roads.

(M) May not be operated between the hours of **10:00 P.M.** and **6:00 A.M.** (**Ord. No. 17-08; 08-15-17**)

(N) Golf carts and neighborhood vehicles shall not be operated in inclement weather nor when visibility is impaired by weather, smoke, fog, or other conditions, or at anytime when there is insufficient light to clearly see persons and vehicle on the roadway at a distance of **five hundred (500) feet**.

(O) A person who drives or is in actual physical control of a golf cart or a neighborhood vehicle on a roadway while under the influence of alcohol or drugs is subject to Section 11-500 through 11-502 of **Illinois Compiles Statutes (625 ILCS 5/11-500 through 11-502)**.

(P) Golf carts and neighborhood vehicles may not be operated on sidewalks or other public property not accessible to or authorized to vehicular traffic.

(Q) Golf carts and neighborhood vehicles may not be operated on streets and highways and roads under the jurisdiction of the Illinois Department of Transportation (Illinois Route 33 and 130) or the County Highway Department.

(R) No person operating a non-highway vehicle shall make a direct crossing upon or across any other highway under the jurisdiction of the State EXCEPT at an intersection of the highway with another public street, road or highway. **(Ord. No. 14-4; 04-15-14)**

24-9-3 PERMITS.

(A) No person shall operate a motorized golf cart or a neighborhood vehicle without obtaining a permit from the City Clerk as provided herein. Permits shall be granted for a period **one (1) year** and may be renewed annually. The cost of a permit is **Sixty Dollars (\$60.00)**. Insurance coverage is to be verified in effect by the City Clerk when renewing the permits. **(Ord. No. 22-10; 05-17-22)**

(B) Every application for a permit shall be made on a form supplied by the City and shall contain the following information:

- (1) The name and address of applicant.
- (2) Name of liability insurance carrier.
- (3) The serial number, make, model and description of the golf cart or neighborhood vehicle.
- (4) Signed waiver of liability by applicant releasing the City from any and all future claims resulting from the operation of their golf cart or neighborhood vehicle pursuant to this Article or any other Ordinance of the City.
- (5) Photostatic copy of applicable liability insurance coverage card specifically for the golf cart or neighborhood vehicle to be operated on City Streets.
- (6) Such other information as the City may require.

(C) No permit shall be granted unless the following conditions are met:

- (1) The golf cart or neighborhood vehicle must be inspected by the Chief of Police (or designee) to insure that the vehicle is safe to operate on City streets and is in compliance with the requirements of this Article.
- (2) Any handicapped applicant must submit a certificate signed by a physician, that he is handicapped applicant and is able to safely operate a motorized golf cart on the roadways designated.
- (3) The applicant must provide evidence of insurance in compliance with the provisions of Illinois Statutes regarding minimum liability insurance for passenger motor vehicles to be operated on the roads of the State of Illinois.

(D) A golf cart or neighborhood vehicle will be allowed to be driven to the police department to have the vehicle inspected and permitted.

The City Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any of the provisions of this Article or if there is evidence that the permittee cannot safely operate the motorized golf cart or neighborhood vehicle on the designated roadways.

Every person operating a golf cart or neighborhood vehicles pursuant to permit hereunder on designated City streets has all the rights and duties applicable to a driver of any other vehicle pursuant to the State highway traffic laws and regulations except when those provisions cannot reasonably be applied to motorized golf carts or neighborhood vehicles.

Any person who violates any provision of this Article shall upon conviction be subject to a fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, and the costs of prosecution.

(Ord. No. 08-20; 09-16-08)

ARTICLE X – VEHICLE IMPOUNDMENT

24-10-1 **IMPOUNDMENT.** Any motor vehicle which is used in connection with the following illegal activities shall be subject to seizure and impoundment:

- (A) Violation of any provision of the Illinois Cannabis Control Act (**720 ILCS 550/1 et seq.**);
- (B) Violation of any of the provisions of the Illinois Controlled Substances Act (**720 ILCS 570/1 et seq.**);
- (C) Violation of Sections 11-14, 11-15, 11-15.1, 11-16, 11-18, 11-18.1, 11-19, or 11-19.1 of the Illinois Criminal Code of 1961 (**725 ILCS 5/11-14; 11-15.1; 11-16; 11-18; 11-18.1; 11-19; 11-19.1**);
- (D) Violation of any provision of Article 24 of the Illinois Criminal Code of 1961 (deadly weapons);
- (E) Violation of Sections 6-303 or 11-501 of the Illinois Vehicle Code (driving while license suspended/revoked, driving under the influence);
- (F) Arrested on an outstanding warrant for failure to appear in court on charges of driving while license suspended/revoked or driving under the influence.

24-10-2 **PENALTIES.** The owner of any motor vehicle seized and impounded under this Section shall be liable to the City for an administrative penalty not to exceed **Five Hundred Dollars (\$500.00)**, plus any towing and storage fees hereinafter provided.

24-10-3 **EXCEPTIONS.** This Section shall not apply if the motor vehicle used in connection with the violation was stolen at the time and the theft was reported to the appropriate police authorities within **seventy-two (72) hours** after the theft was discovered.

24-10-4 **IMPOUNDMENT HEARING.**

(A) Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to **Section 24-10-1** the police office shall provide for the towing of a vehicle to a facility controlled or designated by the City or its agents. Before or at the time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure and of the vehicle owner's right to request a vehicle impoundment hearing to be conducted under this Section.

(B) If the owner of record of a vehicle seized pursuant to **Section 24-10-1** desires to appeal the seizure, said owner must make a request for said hearing within **seventy-two (72) hours** of the seizure. Said request shall be in writing and filed with the Chief of Police or his designee. If an appeal is timely filed a hearing officer of the City shall conduct such hearing within **seventy-two (72) hours** after the request, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. The hearing officer will determine whether there is probable cause to believe the vehicle is subject to seizure and impoundment pursuant to **Section 24-10-1**. In those cases where probable cause exists, the hearing officer shall order the continued impoundment of the vehicle, unless the owner of the vehicle posts a cash bond in the amount of **Five Hundred Dollars (\$500.00)**, plus any applicable towing and storage fees. In those cases where probable cause does not exist, the hearing shall order the immediate release of the vehicle.

(C) Unless a hearing is held pursuant to (B) above, within **ten (10) days** after a motor vehicle is seized and impounded pursuant to **Section 24-10-1**, the City shall notify by certified mail, return receipt requested, the owner of record of the date and location of hearing to be conducted. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than **forty-five (45) days** after the vehicle was seized. All interested persons shall be given a reasonable

opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible. The hearing officer will determine whether there is probable cause to believe the vehicle is subject to seizure and impoundment pursuant to **Section 24-10-1**. If the hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation and that no exception applies, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the City and an administrative penalty in an amount not to exceed **Five Hundred Dollars (\$500.00)**. If the owner of the record fails to appeal at the hearing, the hearing officer shall enter a default order in favor of the city requiring the payment to the City of an administrative penalty in an amount not to exceed **Five Hundred Dollars (\$500.00)**. If the hearing officer finds the vehicle was not used in connection with a violation or that an exception applies, the hearing officer shall order the immediate return of the vehicle or posted cash bond.

(D) If an administrative penalty is imposed pursuant to this Section, such penalty shall constitute a debt due and owing to the City. If a cash bond has been posted pursuant to this Section, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the City may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this Section, a vehicle shall continue to be impounded until:

- (1) the penalty, plus any applicable towing and storage fees, is paid to the City, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle; or
- (2) the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law.

If the administrative penalty and applicable fees are not paid within **thirty (30) days** after an administrative penalty is imposed under this Section against an owner of record who is in default for failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within **thirty (30) days** after the expiration of time at which administrative review of the hearing officer's determination may be sought or within **thirty (30) days** after an action seeking administrative review has been resolved in favor of the City, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under Section 4-208 of the Illinois Vehicle Code (**625 ILCS 5/14-208**). Except as otherwise specifically provided by law, no owner, lien holder or other person shall be legally entitled to take possession of a vehicle impounded under this Section until the civil penalty and fees applicable under this Section have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund the City the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed **Five Hundred Dollars (\$500.00)**, plus any applicable fees.

(E) For purposes of this Section, the "owner of record" of a vehicle is the record titleholder as registered with the Illinois Secretary of State.

24-10-5 HEARING OFFICER. The Chairman of the City's Police Committee shall serve as the hearing officer for purposes of these sections. Whenever any reference to a hearing officer is used, herein, those hearing officers are appointed for purposes for the adjudication system and pursuant to said applicable ordinance, shall be and are hereby deemed to be authorized to act as hearing officers, pursuant to these sections.

24-10-6 IMPOUNDMENT FEE AND PENALTY.
 (A) **Impoundment Fee.** In addition to the penalties provided for in **Section 24-10-6(B)** there shall be an initial Impoundment Fee of **Seventy-Five Dollars (\$75.00)** plus **Thirty Dollars (\$30.00)** per day thereafter while impounded, up to a maximum of **Five Hundred Dollars (\$500.00)**. Said Impoundment Fee shall be paid to the City of Newton, Illinois by the owner of record of the impounded vehicle.

(B) **Penalty.** Any person, firm or corporation violating any provision in this title, for which another penalty is not provided, shall for a first conviction be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, for a second conviction within **one (1) year** thereafter, the person, firm or corporation shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** and for a third or subsequent conviction within **one (1) year** after the first conviction, the person, firm or corporation shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. A separate offense shall be deemed committed on each day during or which a violation occurs or continues.

(Ord. No. 12-18; 11-06-12)

ARTICLE XI – RESTRICTIONS ON USE OF EAGLE TRAILS

24-11-1 **USES.** The use of the Pedestrian/Bike trail commonly known as “Eagle Trails” shall be restricted to Pedestrians, Non-Motorized Bicycles, Wheelchairs, and Motorized Wheelchairs. No other motorized vehicles of any kind shall be allowed upon the “Eagle Trails” except as such shall be used by law enforcement of the City and/or County in the enforcement of their respective Ordinances, rules and regulation and, further except as such shall be used by adjoining property owners for ingress and egress to their property, Frontier and other authorized utility companies and authorized City Officers and Employees in the performance of City work.

24-11-2 **ENFORCEMENT.** The respective law enforcement officers of the City and of the County are hereby authorized to enforce the Ordinance, rules and regulations of the City and/or County whether the violation shall occur within the City limits or outside the City limits.

24-11-3 **PENALTIES.** The penalty to be assessed for violations of this Article shall be punishable by a fine of not less than **One Hundred Fifty Dollars (\$150.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Additionally, any violation involving a motorized vehicle shall result in revocation of any permit for use of that vehicle and the impoundment of the vehicle for not less than **twenty-four (24) hours**. All costs of towing and impoundment shall be assessed against and paid by the violator.

24-11-4 **SIGNS.** The Chief of Police and/or his deputies are authorized to post signs at the said “Eagle Trails” advising of the above restrictions and/or penalties.

(Ord. No. 15-03; 06-02-15)

APPENDIX "A"

CITATION FORM

NO. _____

DATE _____ TIME _____

LICENSE NO. _____ STATE _____

LICENSE EXPIRES _____ MAKE OF VEHICLE _____

METER NUMBER _____ OFFICER _____

YOU ARE CHARGED WITH THE VIOLATION MARKED BELOW:

- | | | | |
|----|-------------------------------------|---------|-----|
| 1. | Overparked, Two Hour Zone | \$10.00 | [] |
| 2. | Double Parked | \$10.00 | [] |
| 3. | Parked at Fire Plug | \$10.00 | [] |
| 4. | Blocking Driveway or Alley | \$10.00 | [] |
| 5. | Parked Where Official Signs Erected | \$10.00 | [] |
| 6. | Improper Parking | \$10.00 | [] |
| 7. | Yellow Line | \$10.00 | [] |
| 8. | Each Additional Hour Violation | \$10.00 | [] |
| 9. | Parking on Sidewalk | \$10.00 | [] |

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP CODE _____

You may settle and compromise a claim for illegal parking by paying the sum set forth above for the first particular violation and the same sum shall apply for the same particular offense for the second and each subsequent violation within 5 days after the time set out above. If not paid within this time limit, an **Enforcement Warrant** will be issued and additional penalties will be collected as provided by the City Code. **(See 24-6-7)**

FOR YOUR CONVENIENCE

After detaching your Ticket Stub, place the fine in the envelope and deposit it in the utility collection box at the City Hall.

SCHEDULE "A"

THROUGH STREETS

In accordance with Section 24-3-1, the following streets and parts of streets are hereby designated and declared to be through streets unless otherwise provided in this Chapter:

Jourdan St.		East city limits to West city limits
Washington St.	From	West Ave. east to the railroad, except at Van Buren St. and West End Ave.
Van Buren St.	From	Water St. south to city limits
Liberty Ave.	From	Washington St. south to city limits, except at Martin St.

SCHEDULE "B"

ONE-WAY STREETS

In accordance with the provisions of Section 24-3-2 the following streets and alleys are hereby declared to be one-way; to-wit:

I. STREETS

STREET - DIRECTION		LOCATION
E. Decatur St. – East	Between	S. Van Buren St. to First Ave. (#20-01)
W. Decatur St. – West	Between	S. Van Buren St. and Jackson St. (#20-01)
W. Decatur St. – West	Between	Stanley St. to Hutton Dr. (#21-03)
Maxwell St. - West	Between	Barton St. and Van Buren St. (#95-19)
West End Ave. – South	Between	Jourdan St. to Washington St. (#12-1)

II. ALLEYS

The alley in block **three (3)** in the original Town, between N. Jackson St. and N. Lafayette St., lying between lots 1, 2, 3, and 4 to the North, and lots 5, 6, 7 and 8 to the South shall be a one-way alley and traffic shall travel only in a westwardly direction. **(#96-16)**

The alley running South from Washington St. to the first alley running East and West South of Washington St. and being further located between the First National Bank in Newton and the Grace United Methodist Church parking lot shall be a one-way alley and traffic on said alley shall travel only in a South direction. **(#95-19)**

SCHEDULE "C"

STOP INTERSECTIONS

In accordance with Section 24-3-3, the following intersections are stop intersections as designated:

I. ONE AND TWO-WAY STOPS.

THROUGH STREET		STOP STREET (DIRECTION)
1st St.	at	Decatur St.
S. 1st St.	at	Harris St.
3rd St.	at	Marion St. (Both)
Barton St.	at	Curtis St. (Both)
Carriage Ln.	at	Illinois (West Bd.) (#00-17)
Carriage Ln.	at	Museum (East Bd.) (#00-17)
Church St.	at	Morgan St. (Both)
Church St.	at	Sainte Marie St.
Church St.	at	Water St. (Both)
N. Church St.	at	W. Marion St.
N. Church St.	at	Water St. (Both) (#93-9)
Curtis St.	at	Barton St.
Curtis St.	at	Charles St.
Curtis St.	at	Jackson St.
Curtis St.	at	Stevens St.
W. Curtis	at	S. Jackson St.
Decatur St.	at	Elizabeth Ave.
Decatur St.	at	Stanley Ave. (North Bd.) (#09-14)
Decatur St.	at	Sycamore St. (#13-4)
E. Decatur St.	at	S. 3rd St.
E. Decatur St.	at	Park St.
W. Decatur St.	at	S. Church St.
Eaton St.	at	ALCO Dr. (#00-17)
Eaton St.	at	Clayton St. (East Bd.) (#00-17)
Eaton St.	at	Driveway Behind IGA (#00-17)
Eaton St.	at	IGA Dr. (#00-17)
Edwards St.	at	Clayton St.
Fairground Ave.	at	Stanley Ave.
Fairground Ave.	at	Sycamore Ave.
Foster St.	at	Elm St.
Foster St.	at	Hutton Rd.
Foster St.	at	Sycamore Ave.
Foster St.	at	West End Ave.
Goble St.	at	Hickory Dr.
Goble St.	at	Marion St.
Halley St.	at	Orchard St.

SCHEDULE "C" (CONTINUED)

STOP INTERSECTIONS

THROUGH STREET		STOP STREET (DIRECTION)
Henry St.	at	Clayton St.
Henry St.	at	College Ave.
Hutton Rd.	at	Decatur St.
Hutton Rd.	at	Fairground Ave.
Iva St.	at	Halley St. (Both) (#86-2)
Iva St.	at	Lafayette St. (South Bd.) (#86-2)
Jackson St.	at	Decatur St.
Jackson St.	at	Henry St.
Jackson St.	at	James St.
Jackson St.	at	Marion St.
Jackson St.	at	Orchard St.
Jackson St.	at	Sainte Marie St.
Kennedy Dr.	at	Illinois (West Bd.) (#00-17)
Kennedy Dr.	at	Museum (East Bd.) (#00-17)
Lafayette St.	at	Curtis St.
Lafayette St.	at	Decatur St.
Lafayette St.	at	Marion St.
Lafayette St.	at	Morgan St. (Both)
Lafayette St.	at	Sainte Marie St.
Liberty Ave.	at	Grant St.
Liberty Ave.	at	Iva St.
Maple St.	at	Decatur St. (Both) (#93-11)
Maple St.	at	Marion St. (Both)
Maple St.	at	Morgan St.
Maple St.	at	Sainte Marie St.
Marion St.	at	N. 2nd St.
Marion St.	at	Peterson Park Rd.
Marion St.	at	Scott St.
Martin St.	at	Halley St.
Martin St.	at	Jackson St.
Martin St.	at	Lafayette St.
Martin St.	at	Stevens St.
Maxwell St.	at	Barton St.
Morgan St.	at	1st Ave.
Morgan St.	at	2nd St. (Both) (#93-9)
Morgan St.	at	3rd St. (Both) (#93-9)
E. Morgan St.	at	N. 2nd St. (Both)
E. Morgan St.	at	N. 3rd St. (Both)
Neese Ave.	at	Marshall Ave. (West Bd.)
Orchard Dr.	at	Halley Dr.
Owens St.	at	Clayton St.

SCHEDULE "C" (CONTINUED)

STOP INTERSECTIONS

THROUGH STREET		STOP STREET (DIRECTION)
Owens St.	at	College Ave.
Reynolds St.	at	1st Ave. (Both)
Reynolds St.	at	3rd St.
Reynolds St.	at	Absher St.
Reynolds St.	at	Charles St.
Reynolds St.	at	David St.
Reynolds St.	at	Harris St.
Reynolds St.	at	Jackson St.
Reynolds St.	at	Maple St.
Reynolds St.	at	Park Ave.
Reynolds St.	at	Stevens St.
Reynolds St.	at	Walnut St.
Road 1200 East	at	Road 850 North (Both) (#01-05)
Scott St.	at	Decatur St.
Scott St.	at	Hillcrest Dr.
Scott St.	at	Morgan St. (Both)
Scott St.	at	Rest Haven Dr.
Scott St.	at	Reynolds St.
Scott St.	at	Washington Ave.
Scott St.	at	Wilson St.
Sycamore St.	at	Decatur St. (#13-4)
Sycamore St.	at	Grant St.
Sycamore St.	at	Lincoln St.
Van Buren St.	at	Henry St.
Van Buren St.	at	Water St. (East Bd.)
Walnut St.	at	Curtis Ave.
Walnut St.	at	Decatur St.
Walnut St.	at	Marion St.
Walnut St.	at	Morgan St.
Walnut St.	at	Sainte Marie St.
Water St.	at	Goble St.
Water St.	at	Jackson St.
Water St.	at	Lafayette St.
Water St.	at	Maple St.
Water St.	at	Van Buren St. (North Bd.)
Water St.	at	Walnut St.
West Ave.	at	Decatur St.
Wilson St.	at	Barton St.

SCHEDULE "C" (CONTINUED)

STOP INTERSECTIONS

II. TWO AND THREE-WAY STOP INTERSECTIONS.

<u>STREET</u>	<u>STREET</u>
Lafayette St. (South Bd.)	Orchard St. (Both) (#86-2)
Washington St. (East Bd.)	Jackson St. (Both)

III. FOUR-WAY STOP INTERSECTIONS.

Barton St.	and	Curtis St. (#10-7)
Fairground Ave.	and	West End Alley (#86-5)
Lafayette St.	and	Reynolds St.
S. Lafayette St.	and	W. Curtis St. (#96-7)
Liberty Ave.	and	Martin St.
E. Marion St.	and	Scott St.
Washington St.	and	West End Ave.
Water St.	and	Van Buren St.

SCHEDULE "D"

YIELD INTERSECTIONS

In accordance with Section 24-3-4, the following are designated yield intersections:

<u>THROUGH STREET</u>		<u>YIELD STREET - DIRECTION</u>
Jackson St.	at	Marion St. (Both)
Jackson St.	at	Morgan St. (Both)
S. Van Buren	at	Russell Ave. (East Bd.)

SCHEDULE "E"

SPEED ZONES

In accordance with the provisions of Section 24-4-2(F) the following speed zones are hereby established, to-wit:

STREET - MPH		LOCATION
S. Jackson St. - 20 MPH	Between	Reynolds St. and Curtis St. (#93-17)
Maxwell St. - 20 MPH	Between	Van Buren St. and Absher St. on school days
E. Reynolds St. - 20 MPH	Between	Van Buren St. and Harris St. on school days
W. Washington - 20 MPH	Between	Walnut St. and Lafayette St. on school days

SCHEDULE "F"

SCHOOL CROSSING SIGNALS

In accordance with the provisions of Section 24-4-2(G) the following streets are designated as school signal crosswalks:

S. Van Buren St.	at	Maxwell St. (Sec. 41-24)
W. Jourdan	at	Church St.

SCHEDULE "G"

NO PARKING ZONES

In accordance with the provisions of Section 24-6-3(C) the following streets are hereby designated as "no parking zones"; to-wit:

STREET (DIRECTION)		LOCATION
Commercial Ave.		All directions (#04-2)
S. Gregory Dr.		All directions (#04-2)
Absher St. (Both)	From	Reynolds St. to Maxwell St. (#12-1)
W. Decatur St. (Both)	From	S. Van Buren St. to Hutton Dr. (#18-07)
Homestead Dr. (Both)	From	Jourdan St. north 200 feet (#95-15)
Industrial Park Dr. IL 33 (Jourdan Ave.)	From	All directions (#04-2) West corporate limits to 100 feet west of West Ave. (#10-3)
Jourdan St. (North)		At the intersection of Goble St.
Jourdan St. (South)		At the intersection of Liberty Ave.
Jourdan St. (South)		At the intersection of Sycamore St.
Jourdan St. (Both)	From	1st Ave. to Ill. Central-Gulf R.R.
Jourdan St. (Both)	From	1st Ave. to Scott St. (#94-28)
Jourdan St. (South)	From	Lafayette St. east 40 feet (#93-2)
Jourdan St. (North)	From	Lafayette St. east 60 feet (#93-2)
Jourdan St. (Both)	From	West End Ave. to Maple St. (#94-33)
W. Jourdan St. (North)	From	Jackson St. to a point 50 feet west and from a point 122 feet west of the west line of Jackson St. west to the alley running north from Jourdan St.
Maple St. (West)	From	Jourdan St. south 60 feet. (93-15)
Marshall St. (South)	From	Rte. 130 south to Factory
Maxwell St. (North)	From	A point 50 feet east to a point 50 feet west of the South exit drive of Newton Consolidated Grade School.
Maxwell St. (South)	From	Van Buren St. to Charles St. (#93-16)
Morgan St. (Both)	From	First St. and Second St. (#98-15)
Reynolds St. (North)	From	Lafayette St. to Jackson St. (#03-08)
Scott Ave. (West)	From	Wilson St. north for 750' (#22-08)
Van Buren St. (West)	From	Henry St. south
Van Buren St. (West)	From	Martin St. south

SCHEDULE "H"

LIMITED PARKING ZONES

In accordance with the provisions of Section 24-6-3(C) the following streets are hereby designated as "Limited Parking Zones", to-wit:

I. GENERALLY

<u>STREET - SIDE</u>		<u>LOCATION</u>
W. End Ave. (East)	From	Washington St. to Fairground St. from 7:00 A.M. to 4:00 P.M. Monday through Friday (#02-12)
W. End Ave. (West)	From	Decatur St. to Fairground St. from 7:00 A.M. to 4:00 P.M. Monday through Friday (#02-12)
Decatur St. (Both)	From	Stanley St. to Hutton Dr. from 7:00 A.M. to 4:00 P.M. (#02-12)
W. Jourdan St. (South)	Between	The center of the intersection with West End Ave. west a distance of 150 feet from 3:00 P.M. to 4:00 P.M. on school days.
E. Reynolds St. (Both)	From	West of S. 1st St. from 7:00 A.M. to 9:00 A.M. and from 2:00 P.M. to 4:00 P.M. on school days. (#87-11)
Washington St. (Both)	Between	Sycamore St. to West End Ave. from 8:00 A.M. to 9:00 A.M. and 3:00 P.M. to 4:00 P.M.
S. Van Buren St. (East)	From	Maxwell St. and Reynolds St. shall be limited to and designated as "Fifteen Minute Parking". (#98-15)

II. TWO HOURS, 8:00 A.M. TO 5:00 P.M. EXCEPT SATURDAYS AND SUNDAYS.

Barton St.	From	Maxwell St. to Curtis St.
Maxwell St. (Both)	From	Van Buren St. to Charles St.
S. Van Buren St. (Both)	From	Reynolds St. to Maxwell St.

III. THREE MINUTES.

W. Jourdan St. (North side) (in front of Post Office)	From	A point 50 feet west of the west line of the intersection with Jackson St. to a point 72 feet west thereof.
--	------	---

SCHEDULE "I"

NO PARKING TRUCKS

In accordance with Section 24-6-3(C) the following streets are hereby designated as no-parking zones for any bus or vehicle having a license classification higher than "B" to-wit:

STREET - SIDE		LOCATION
W. Jourdan St. (South)	From	Liberty Ave. to 50 feet west of Sycamore St.
S. Van Buren St. (West)	From	Martin St. to 50 feet south.
S. Van Buren St. (West)	From	Henry St. 40 feet north.
S. Van Buren St. (East)	From	Curtis St. 50 feet south.
S. Van Buren St. (East)	From	Owens St. 40 feet south.
W. Jourdan St. (South)	From	West End Ave. to Homestead Dr.

SCHEDULE "J"

HANDICAPPED PARKING ZONES

In accordance with the provisions of Section 24-6-4 the following streets, etc. are hereby designated and posted as "handicapped parking zones" to-wit:

STREET	LOCATION
S. Jackson St.	Parking place south of the mid-block alley of the first block.
E. Jourdan St.	Parking place north of the mid-block alley of the first block.
E. Van Buren St.	Parking place east of the mid-block alley of the first block.
S. Van Buren St.	Parking place north of the mid-block alley of the first block.
W. Washington St.	Parking place east of the mid-block alley of the first block.

SCHEDULE "K"

LOAD LIMIT STREETS

STREET	LOCATION
N. Church St.	All
Commercial Dr.	All
E. Decatur	All
W. Decatur	West End Ave. to Hutton Dr.
Fairground St.	All
Fifth St.	Rt. 130/33
First Ave.	E. Morgan to E. Reynolds
Foster St.	All
Goble	Rt. 33 200' North
S. Gregory Dr.	Ill. 33 to S. End of Gregory Dr.
Henry St.	S. Jackson to College Ave.
Hutton Dr.	All
Liberty Ave.	All
Industrial Dr.	All
N. Jackson	Rt. 33 145' North
S. Jackson St.	Martin to Russell St.
S. Jackson St.	W. Washington to Decatur
E. Jourdan St.	Fifth Street
S. Lafayette	Rt. 33 to Decatur
Maple St.	W. Decatur to W. Jourdan
N. Maple	Rt. 33 230' North
E. Marion	N. Van Buren St. 303' East
Marshall Dr.	All
Martin St.	All
E. Morgan	Scott St. to Ill. 33/130
E. Morgan	N. Van Buren to First Ave.
E. Reynolds	All
Russell St.	to S. Van Buren St.
Scott St.	Rt. 130/33 to Wilson St.
N. Scott St.	Rt. 130/33 215' North
Second Ave.	Ill 33/130 to Washington St.
N. Second Ave.	Rt. 130/33 to Morgan St.
Stanley St.	W. Jourdan to W. Washington St.
Sycamore St.	Rt. 33 to Washington St.
Third Ave.	E. Decatur to E. Reynolds
N. Third Ave.	Rt. 130/33 to Morgan St.
S. Third Ave.	Rt. 130/33 to Washington St.
N. Van Buren St.	Jourdan St. to Water St.
S. Van Buren St.	All
Walnut St.	W. Decatur to W. Jourdan
Washington St.	West End Ave. to Second Ave.
E. Washington St.	E. Decatur
West End Ave.	Fairground to W. Jourdan
Wilson St.	All

(Ord. No. 10-6; 03-16-10)

SCHEDULE "L"

SNOW ROUTES

In accordance with the provisions of Section 24-6-9 the following streets are hereby designated as Snow Routes to-wit:

STREET		LOCATION
S. Lafayette St.		Entire Length
W. Reynolds St.		Entire Length
W. Washington St.	Between	Jackson St. and West End Ave.
West End Ave.	Between	Washington Ave. and W. Jourdan St.

CHAPTER 25 - NUISANCES

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CHAPTER 25

NUISANCES

ARTICLE I – GENERALLY

25-1-1 **SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the City, for any person, firm or corporation within the limits of the City to permit the following; but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A) **Filth.** To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place, to the prejudice of others.

(B) **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome, or impure, the water of any spring, river, stream, pond or lake, well, public or private, to the injury or prejudice of others.

(D) **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **three hundred (300) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within **eight hundred (800) feet** of any occupied dwelling house.

(G) **Noxious Odors.** To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

(H) **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(I) **Wells Unplugged.** To permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled.

(J) **Burn-Out Pits.** To construct or operate any salt water pit or oil field refuse pit, commonly called a **“burn-out pit”** so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse.

(K) **Discarded Materials.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(L) **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply or from one underground stratum to another.

(M) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease, or has bought or leased a residence or other real property, when the harassment, intimidation, or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain, and carry on any offensive or unwholesome business or establishment within the limits of the City or within **one and one-half (1 ½) miles** of the City limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit upon or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter or material objects of any size or description to fall upon the streets of the City from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers, or boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the City.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(T) **Bringing Nuisances into the City.** To bring into the City or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or which shall occasion a nuisance in the City, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(V) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the City so as to cause annoyance or discomfort to the residents thereof.

(W) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

(X) **Motor Transport Engines.** To operate motor vehicle transport engines in the nighttime between the hours of **eight (8:00) o'clock P.M.** and **six (6:00) o'clock A.M.**, in any place in which a majority of the buildings, within a radius of **four hundred (400) feet** are used exclusively for residence purposes, excluding state and federal highways.

(Y) **Accumulation of Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(Z) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(740 ILCS 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this City from declaring what shall be nuisances, and abating them within the City limits.

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the City if such use, keeping or maintaining shall be dangerous or detrimental to health.

25-1-3 **NOTICE TO ABATE.** Whenever the Mayor or Police Chief find that a nuisance exists, the Mayor or the Police Chief shall mail (certified) or personally serve to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) The date by which abatement must be completed;
- (E) The date by which a request for a hearing must be filed and a statement of procedure for so filing;
- (F) A statement that the responsible party has a right to appeal the abatement order to the City Council.
- (G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this City will abate the nuisance and assess the costs against the property and/or impose a fine.

(Ord. No. 21-09; 07-20-21)

25-1-4 **HEARING.** Any person ordered to abate a nuisance may have a hearing with the Police Chief or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the City Clerk within the time stated in the notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Police Chief or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

25-1-5 **APPEAL.** Any party aggrieved by the decision of the Police Chief may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the City Council at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

25-1-6 **ABATEMENT BY CITY.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this City may perform the required action to abate. Any City official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the City Clerk who shall pay such expenses on behalf of this City. **(65 ILCS 5/11-60-2)**

25-1-7 **FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The City shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

(65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)

ARTICLE II - WEEDS

25-2-1 WEEDS – DECLARED A NUISANCE. Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the City are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place, except in the manner and within the parameters authorized by the City Council in furtherance of educational and/or research projects for the common good. **(Ord. No. 17-01; 03-21-17)**

25-2-2 HEIGHT. It shall be unlawful for anyone to permit any weeds, grass or plants, other than trees, herbs, fruits, vegetables, bushes, flowers, or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the City, except in the manner and within the parameters authorized by the City Council in furtherance of educational and/or research projects for the common good. **(Ord. No. 17-01; 03-21-17)**

25-2-3 NOTICE. The Police Department or any other person so designated by the Mayor may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 SERVICE OF NOTICE. Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **seventeen (17) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 ABATEMENT. If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant.

25-2-6 LIEN. Charges for such weed or grass removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-2-7 PAYMENT. Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property.

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City after the lien is in effect for **sixty (60) days**.

(65 ILCS 5/11-20-6 and 5/11-20-7)

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Chief of Police or a designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-3-5 **LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-3-6 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

25-3-7 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

(65 ILCS 5/11-20-13 and 720 ILCS 5/47-10)

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 **DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

"INOPERABLE MOTOR VEHICLES" shall mean any motor vehicle which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

25-4-2 **DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

25-4-3 **NOTICE TO OWNER.** The Police Chief or a designated representative shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Chief or a designated representative may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof.

25-4-4 **EXCLUSIONS.** Nothing in this Article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

(65 ILCS 5/11-40-3)

ARTICLE V - DANGEROUS AND UNSAFE PROPERTIES

25-5-1 **ADOPTION BY REFERENCE.** The City may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the City and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those building. Therefor, the City does hereby adopt by reference the applicable provisions of **Chapter 65 of the Illinois Compiled Statutes, Sections 5/11-31-1 and 5/11-31-1.1** governing dangerous and unsafe buildings.

ARTICLE VI - PENALTIES AND SPECIAL ASSESSMENT

25-6-1 **SPECIAL ASSESSMENT.** In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under this Chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement; (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in **Chapter 65 of the Illinois Compiled Statutes, Section 5/11-31-1.1 et seq.**, and (iv) a lien has been filed of record by the municipality in the office of the Recorder of Deeds in the county in which the property is located, then those costs may be collected as a special assessment on the property pursuant to **65 ILCS 5/9-2-4.5**. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

CITY OF NEWTON
108 N. Van Buren St.
Newton, IL 62448

PHONE: 618-783-8478
FAX: 618-783-8047

OFFICE HOURS:
7:00 A.M. – 12:00 A.M.
1:00 P.M. – 4:00 P.M.
MONDAY – FRIDAY

NOTICE OF NUISANCE VIOLATION

TO: _____

You are hereby notified that the Police Chief or his representatives has determined that the property owned by you and/or occupied by you, or under your control as the case may be located at _____, within the corporate limits of this City contains an unlawful nuisance(s) as defined by **Chapter 25** of the Revised Code of Ordinances as follows:

You are required pursuant to **Chapter 25, Article I, Section 25-1-3** to abate and remove any nuisance(s) within **five (5) days** from the date of this Notice as follows:

Please be advised that within said **five (5) day** period after service of this Notice upon you, you may request a hearing before the President and City Council of the City in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing the items specified and identified herein that constitute a violation of the City Ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the City within said **five (5) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30) days** after the City receives your request. During the course of said hearing you may be represented by counsel, present evidence on your behalf and cross-examine any witnesses presented by the City, that the formal rules of evidence shall not apply.

If your appeal or request for extension is denied, you shall then be required to remove all items which the City contends which constitute a nuisance and violation of City Ordinances within **five (5)** after having received notification of the Council's decision.

If you fail to comply and the nuisance is not abated within the time prescribed the City shall proceed to issue the appropriate citation which may subject you to the penalties prescribed by the City Ordinances and State law as well as institute a suit seeking a judicial order permitting the City to remove all said items which constitute the nuisance from your premises and dispose of same at your expense, impose a monetary penalty and enjoin the continuation of said nuisance.

The Corporate Authorities shall keep an account of the expense incurred for said abatement charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses incurred by the City shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

CHIEF OF POLICE
CITY OF NEWTON

Dated this _____ day of _____, 20____.

CITY OF NEWTON
108 N Van Buren St.
Newton, IL 62448

PHONE: 618-783-8478
FAX: 618-783-8047

OFFICE HOURS:
7:00 A.M. – 12:00 A.M.
1:00 P.M. – 4:00 P.M.
MONDAY – FRIDAY

NOTICE OF UNLAWFUL WEED, PLANT, OR GRASS GROWTH

TO: _____

You are hereby notified that the Chief of Police or his representatives has determined that the property owned by you and/or occupied by you, or under your control as the case may be located at _____, within the corporate limits of this City contains unlawful weed, plant, or grass growth as defined by **Chapter 25, Article II**, of the Revised Code of Ordinances, that being said growth that exceeds **eight (8) inches** in height. Any such weeds, plants, or grass are hereby declared to be a nuisance.

You are required to remove all said growth within **five (5) days** from the date of this Notice.

Please be advised that within said **five (5) day** period after service of notice upon you, that you may request a hearing before the President of the City in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition on your property by cutting and removing all said weeds, plants, or grass that are in violation of City ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the City. The hearing shall be scheduled within **five (5) days** after the City receives your request and shall be conducted by the Mayor or other person appointed by him. If your appeal or request for extension is denied you are then required to cut and remove all said weeds, plants, or grass within **five (5) days** after having received notification of the Mayor or his agent's decision. Oral notification is sufficient if rendered at the time of the hearing.

If you fail to comply the City shall proceed to issue the appropriate citation which may subject, you to the penalties prescribed by the City Ordinances and State law. In addition, the municipal authorities shall proceed to abate said nuisance; that is, cut and remove the offending grass, weeds or plants.

The cost of such growth removal shall be paid by you. Charges for said action, i.e., the cutting or removal of said weeds, plants, or grass including labor shall be a lien upon said premises. A bill for the cost and expenses incurred by the City shall be presented to you and if not paid within **thirty (30) days** of its submission, a Notice of Lien of said cost and expenses incurred by the City shall be recorded against the property.

Any property subject to said lien 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. You are also subject to penalties as provided by the terms and provisions of the City code. The cost and expense of restitution, including all labor and material shall also be imposed as a penalty for each violation.

CHIEF OF POLICE
CITY OF NEWTON

Dated this _____ day of _____, 20_____.

CITY OF NEWTON
108 N Van Buren St.
Newton, IL 62448

PHONE: 618-783-8478
FAX: 618-783-8047

OFFICE HOURS:
7:00 A.M. – 12:00 A.M.
1:00 P.M. – 4:00 P.M.
MONDAY – FRIDAY

NOTICE OF UNLAWFUL GARBAGE AND/OR DEBRIS OR TRASH

TO: _____

You are hereby notified that the Chief of Police has determined that property owned by you and/or occupied by you, or under your control as the case may be located at _____, within the corporate limits of this City contains garbage and/or debris or trash as defined by **Chapter 25, Article III** of the Revised Code of Ordinances of the City. The accumulation of said garbage, debris, or trash on said premises is hereby declared to be a nuisance and unlawful.

You are required to remove all such material within **five (5) days** from the date you receive this Notice.

Please be advised that within said **five (5) day** period after service of this Notice upon you, you may request a hearing before the President and City Council of the City in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing said garbage, debris, and trash. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the City within said **five (5) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30) days** after receipt of your request. During the course of said hearing you may be represented by counsel, present evidence on your behalf, and cross-examine any witnesses presented by the City, that the formal rules of evidence shall not apply. If your appeal is denied, you are then required to remove all said garbage, debris, or trash within **five (5) days** after having received notification of the Council's decision. If you fail to comply the City shall proceed to issue the appropriate citation, which may subject you to the penalties prescribed by the City ordinances and State law as well as institute a suit seeking a judicial order permitting the City to remove all materials and items in violation of law from your premises and dispose of same at your expense.

The corporate authorities shall keep an account of the expense incurred for said abatement, charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses thereof incurred by the City shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

CHIEF OF POLICE
CITY OF NEWTON

Dated this _____ day of _____, 20_____.

CITY OF NEWTON
108 N Van Buren St.
Newton, IL 62448

PHONE: 618-783-8478
FAX: 618-783-8047

OFFICE HOURS:
7:00 A.M. – 12:00 A.M.
1:00 P.M. – 4:00 P.M.
MONDAY – FRIDAY

NOTICE OF INOPERABLE VEHICLE

TO: _____

You are hereby notified that the Police Department has determined that an "inoperable vehicle(s)" owned by you and/or stored by you, or under your control as the case may be is located at _____, within the corporate limits of this City. That this constitutes an unlawful nuisance(s) as defined by **Chapter 25, Article IV, Section 25-4-1** of the Revised Code of Ordinances.

You are required to abate and remove any and all inoperable vehicles within **seven (7) days** from the date of this Notice.

Please be advised that within said **seven (7) day** period after service of this Notice upon you, you may request a hearing before the President and City Council of the City in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing said inoperable vehicle(s) that constitute a violation of the City Ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the City within said **seven (7) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30)** days after the City receives your request. During the course of said hearing you may be represented by counsel, present evidence on your behalf and cross-examine any witnesses presented by the City, that the formal rules of evidence shall not apply.

If your contest or request for extension is denied, you shall then be required to remove all the inoperable vehicles which the City contends constitute a nuisance and a violation of City Ordinances within **seven (7) days** after having received notification of the Council's decision.

If you fail to comply and the nuisance is not abated within the time prescribed, the City shall proceed to issue the appropriate citation which may subject you to the penalties prescribed by the City Ordinances and State law as well as institute a suit seeking a judicial order permitting the City to removal all said items which constitute the nuisance from your premises and dispose of same at your expense, impose a monetary penalty and enjoin the continuation of said nuisance.

The Corporate Authorities shall keep an account of the expense incurred for said abatement charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses incurred by the City shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

CHIEF OF POLICE
CITY OF NEWTON

Dated this _____ day of _____, 20_____.

CITY OF NEWTON

**108 N Van Buren St.
Newton, IL 62448**

PHONE: 618-783-8478
FAX: 618-783-8047

OFFICE HOURS:
7:00 A.M. – 12:00 A.M.
1:00 P.M. – 4:00 P.M.
MONDAY – FRIDAY

NOTICE OF DERELICT

TO: _____

You are hereby notified that the Chief of Police or other person designated by him to act on his behalf, has received a complaint, or a member of the Police Department has personally observed or has reasonable and probable cause to believe and conclude that a derelict _____ owned, stored, housed, or possessed by you or under your control as the case may be, is presently located _____, within the corporate limits of the City, that same is in view of the general public and is an unlawful nuisance(s) as defined by **Chapter 25, Nuisances, Article IV, et seq.** of the City Revised Code of Ordinances. This/these _____ is/are hereby declared to be a nuisance.

Pursuant to said ordinance you are ordered and required to abate said nuisance by removing and disposing of the object(s) described herein within **seven (7) days** after you receive a copy of this Notice.

Please be advised that within said **seven (7) day** period after service of this Notice upon you, you may request a hearing before the City in order for you to contest the findings and conclusions stated herein or request an extension of time within which you shall remediate the condition of your property by removing the items specified and identified herein that constitute a violation of the City Ordinances. This request shall be in writing and delivered to the Clerk or Deputy Clerk of the City within **seven (7) days** after you receive said Notice. The hearing shall be scheduled within **thirty (30) days** after the City received your request before a person appointed by the Mayor. During the course of said hearing you may be represented by counsel, present evidence on your behalf and cross-examine any witnesses presented by the City, that the formal rules of evidence shall not apply.

If your appeal or request for extension is denied, you shall then be required to remove all items which the City contends which constitute a nuisance and violation of City Ordinances within **seven (7) days** after having received notification of the decision.

If you fail to comply and the nuisance is not abated within the time prescribed the City shall proceed to issue the appropriate citation which may subject you to the penalties prescribed by the City Ordinances and State law as well as institute a suit seeking a judicial order permitting the City to remove all said items which constitute the nuisance from your premises and dispose of same at your expense, impose a monetary penalty and enjoin the continuation of said nuisance.

The Corporate Authorities shall keep an account of the expense incurred for said abatement charges and if this bill is not paid within **thirty (30) days** after it is presented to you, a lien for the costs and expenses incurred by the City shall be recorded and the property which is subject to the lien may be sold for non-payment of same.

CHIEF OF POLICE
CITY OF NEWTON

Dated this _____ day of _____, 20____.

CITY OF NEWTON
108 N Van Buren St.
Newton, IL 62448

PHONE: 618-783-8478
FAX: 618-783-8047

OFFICE HOURS:
7:00 A.M. – 12:00 A.M.
1:00 P.M. – 4:00 P.M.
MONDAY – FRIDAY

NOTICE OF DANGEROUS AND/OR UNSAFE BUILDING/STRUCTURE

TO: _____

You, as owner(s) of the property lawfully described below, are hereby notified by the undersigned **City of Newton, Jasper County, Illinois**, that said property has upon it a building/ structure which is:

(A) Dangerous and/or unsafe in that said building or structure has become so dilapidated, decayed, unsafe, unsanitary or which so utterly fails to provide the amenities essential to decent living, that it is unfit for human habitation or is likely to cause sickness or disease, so as to cause injury to the health, morals, safety, or general welfare of those living therein now or hereafter; or

(B) Dangerous and/or unsafe in that said building or structure has light, air or sanitation facilities which are inadequate to protect the health, morals, safety, and general welfare of human beings who live or may live therein; or

(C) Dangerous and/or unsafe in that the condition of the building or structure is unsafe, unsanitary, or dangerous to the health, morals, safety, and general welfare of the people of this City; or

(D) Dangerous and/or unsafe in that the building or structure is uncompleted and/or abandoned; or

(E) Dangerous and/or unsafe pursuant to any of the terms and provisions of the City Code of Ordinances, **Chapter 25, Nuisances, Article V, Building as Nuisance**.

This building has been found to be a dangerous and unsafe building by the City officials. This Notice shall remain on this building until it is repaired, vacated, or demolished in accordance with the Notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this Notice until such notice is complied with.

That said building/structure is hereby declared to be a public nuisance and shall be repaired, vacated, or demolished as provided in the City Code of Ordinances, **Chapter 25, Nuisances, Article V, Building as Nuisance**.

The property is hereby legally described as follows: _____

Unless such building/structure is repaired, put into safe condition or demolished and all debris removed within **ninety (90) days** of the receipt of this Notice, the City shall apply to the Circuit Court for an order authorizing such action to be taken by the City with respect to the above-described building/structure. Any costs incurred by the City to restore the buildings to a safe condition or to demolish the building and remove debris shall be recovered from the owners of the above-described property pursuant to Chapter 65, Paragraph 5/11-31-1, Illinois Compiled Statutes.

That the said costs incurred by the City shall be a lien on the property which lien shall be subordinate to all prior existing liens and encumbrances. The City shall file Notices of Lien in the office of the County Recorder of Deeds. Said lien may be enforced by proceeding to foreclosure as in the case of mortgages or mechanics of lien. A suit to foreclosure this lien shall be commenced within **three (3) years** after the date of filing Notice of Lien.

Dated this ____ day of _____, 20____.

CHAPTER 27 - OFFENSES

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CHAPTER 27

OFFENSES

ARTICLE I – DEFINITIONS

27-1-1 **MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-22**, as approved, adopted and amended are hereby adopted by the City, as fully as if set out herein. **(See 65 ILCS 5/1-3-2)**

27-1-2 **CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City; the provisions thereof shall be controlling within the corporate limits of the City; provided, however, the penalties as provided by this Code shall apply. **(See 65 ILCS 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 **DISTURBING POLICE OFFICER.** No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the City owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not constitute a crime unless the language is directed at the officer and provokes a breach of the peace. **(See 65 ILCS 5/11-1-1)**

27-2-2 **IMPERSONATION OF OFFICER.** No person in the City shall falsely represent himself to be an officer of the City or shall, without being duly authorized by the City, exercise or attempt to exercise any of the duties, functions or powers of the City officer, or hinder, obstruct, resist or otherwise interfere with any City officer in the discharge of the duties of his office. **(See 720 ILCS 5/32-5.1)**

27-2-3 **DISTURBING LAWFUL ASSEMBLIES.** It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(See 65 ILCS 5/11-5-2)**

27-2-4 **MOB ACTION.** A person commits mob action when he or she engages in any of the following:

- (A) the knowing or reckless use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law;
- (B) the knowing assembly of **two (2)** or more persons with the intent to commit or facilitate the commission of a felony or misdemeanor; or
- (C) the knowing assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(See 720 ILCS 5/25-1) (See 65 ILCS 5/11-5-2)

27-2-5 **LOOTING BY INDIVIDUALS.** A person commits looting when he or she knowingly without authority of law or the owner enters any home or dwelling or upon any premises of another, or enters any commercial, mercantile, business, or industrial building, plant, or establishment, in which normal security of property is not present by virtue of a hurricane, fire, or vis major of any kind or by virtue of a riot, mob, or other human agency, and obtains or exerts control over property of the owner. (See 720 ILCS 5/25-4)

27-2-6 **DISTURBING THE PEACE.** No person shall disturb the peace of any individual or private family, or of any lawful congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. (See 65 ILCS 5/11-5-2)

27-2-7 **ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-8 **SALE OF CIGARETTES OR TOBACCO TO MINORS.**
 (A) No person under **twenty-one (21)** years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any person under **twenty-one (21) years of age.**

(B) No person under **sixteen (16) years of age** may sell any tobacco product at a retail establishment selling tobacco products. This subsection does not apply to a salesclerk in a family-owned business which can prove that the salesclerk is in fact a son or daughter of the owner.

(C) No person under **twenty-one (21) years of age** in the furtherance or facilitation of obtaining any tobacco product shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(D) No person under **twenty-one (21) years of age** shall possess any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms.

(E) A person shall not distribute without charge samples of any tobacco product to any other person, regardless of age:

- (1) within a retail establishment selling tobacco products, unless the retailer has verified the purchaser's age with a government issued identification;
- (2) from a lunch wagon; or
- (3) on a public way as a promotion or advertisement of a tobacco manufacturer or tobacco product.

This subsection (E) does not apply to the distribution of a tobacco product sample in any adult-only facility.

(F) Tobacco products listed in this Section may be sold through a vending machine only if such tobacco products are not placed together with any non-tobacco product, other than matches, in the vending machine and the vending machine is in any of the following locations:

- (1) places to which persons under **twenty-one (21) years of age** are not permitted access.
- (2) places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.
- (3) places where the vending machine can only be operated by the owner or an employee over age **twenty-one (21)** either directly or through a remote-control device if the device is inaccessible to all customers.

(G) The sale or distribution by any person of a tobacco product in this Section, including but not limited to a single or loose cigarette, that is not contained within a sealed container, pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited.

(See 720 ILCS 675/1)

27-2-9 **SMOKELESS TOBACCO.**

(A) **Definition.** For the purposes of this Section, the term “smokeless tobacco” means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Twenty-One (21).** No person shall sell any smokeless tobacco product to any person under the age of **twenty-one (21)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **twenty-one (21)**, without charge or at a nominal cost, any smokeless tobacco product. (See 720 ILCS 680-1 et seq.)

27-2-10 **UNLAWFUL CONDUCT ON A PUBLIC WAY.**

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-11 **AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. (See 720 ILCS 5/31-7)

27-2-12 **ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. (See 720 ILCS 5/31-6(C))

27-2-13 **FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-14 **RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-15 **AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-16 **POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-17 **INTOXICATION IN PUBLIC.** No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. (See 65 ILCS 5/11-5-3)

27-2-18 **BEGGING.** No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. (See 65 ILCS 5/11-5-4)

27-2-19 **CONCEALED WEAPONS.** No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or handgun, without being the holder of an Illinois Concealed Carry License. Additionally, no person, shall within the City, carry or wear under his clothes or conceal about his person any slingshot, cross knuckles, knuckles of lead, brass or other metal, switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any Sheriff or Deputy Sheriff or Constable of this State, nor to any United States Marshal. (See 430 ILCS 66/1 et seq.) (Ord. No. 14-5; 04-15-14)

27-2-20 **DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any citizen from discharging a firearm when lawfully defending his person or property; nor to prevent the discharge of bow and arrow by students upon school grounds while under the direct and immediate supervision of teachers or other school supervisory personnel.

27-2-21 **GAMES IN STREET.** No person shall, upon any City street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-22 **STORAGE OF EXPLOSIVES.**
 (A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.
 (B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds**. (See 65 ILCS 5/11-8-4)

27-2-23 **THROWING ROCKS.** No person in the City shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-24 **DESTRUCTION OF PUBLIC PROPERTY.** No person in the City shall deface, destroy, or in any way, injure any public property, or any other apparatus of the City.

27-2-25 **FORTUNE TELLING.** No person in the City shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-26 **ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. **(See 720 ILCS 505/1)**

27-2-27 **HALLOWEEN CURFEW.** It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the City, either masked or unmasked, except on a day designated by the City Council and no later than **8:00 P.M.** **(See 65 ILCS 5/11-1-5)**

27-2-28 **THEFT OF RECYCLABLES UNLAWFUL.** It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the City limits unless said person is acting as an agent for the City or acting as an agent for a waste hauler licensed by the City.

27-2-29 **THROWING OBJECTS FROM MOTOR VEHICLES.** Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the City Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-30 **DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS 5/11-80-13)**

27-2-31 **PROTECTIVE COVERING OR FENCING.** Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding

such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

27-2-32

(A)

CURFEW HOURS FOR MINORS.**Definitions.** Whenever used in this Section.

- (1) **"Curfew hours"** means:
 - (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
 - (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
 - (c) 12:01 A.M. until 6:00 A.M. on Sunday.
- (2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (3) **"Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- (4) **"Guardian"** means:
 - (a) A person who, under court order, is the guardian of the person of a minor; or
 - (b) A public or private agency with whom a minor has been placed by a court.
- (5) **"Minor"** means any person under **eighteen (18) years** of age.
- (6) **"Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (7) **"Parent"** means a person who is:
 - (a) A natural parent, adoptive parent, or stepparent of another person; or
 - (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (9) **"Remain"** means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B)

Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows the minor to remain in any

public place or on the premises of any establishment within the City during curfew hours.

- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C)

Defenses.

- (1) It is a defense to prosecution under subsection (B) that the minor was:
- (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D)

Enforcement. Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(See 65 ILCS 5/11-1-5 and 720 ILCS 555/1)**

27-2-33 SANCTITY OF FUNERAL AND MEMORIAL SERVICES. It shall be unlawful for a person to violate any of the following provisions of this Section:

- (A) Engaging in any loud protest of singing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or
- (B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates. **(See 720 ILCS 5/26-6)**

27-2-34 USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS PROHIBITED.

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

27-2-35 NOISE.

(A) **Prohibited; Enumeration.** The creating of any unreasonably loud, disturbing and unnecessary noise within the City limits is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited. The following, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

- (1) **Blowing Horns.** The sounding of any horn or signal device on any automobile, motorcycle or bus, while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (2) **Radios, Etc.** The playing of any radio, music player such as a boom box, tape cassette, disc player, smart phones, etc. played through exterior speakers, portable speakers (Bluetooth) or television, audio system or musical instrument or live band in such a manner or with such volume, between the hours of **10:00 P.M.** and **7:00 A.M.** Sunday through Thursday and **11:00 P.M.** and **7:00 A.M.** Friday and Saturday in such a manner as to be plainly audible beyond the boundaries of the premises upon which such equipment is operated or used, shall be prima facie evidence of a violation of this Section.

27-2-36 FALSE REPORT OF THEFT AND OTHER LOSSES. It is unlawful for a person to knowingly make a false report of a theft, destruction, damage or conversion of any property to a law enforcement agency or other governmental agency with the intent to defraud an insurer. **(See 720 ILCS 5/26-1.1)**

27-2-37

HARASSING AND OBSCENE COMMUNICATIONS.

(A)

Definitions. As used in this Section:

- (1) **Electronic communication** means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. "Electronic communication" includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.
- (2) **Family or household member** includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between **two (2)** individuals in business or social contexts shall be deemed to constitute a dating relationship.
- (3) **Harass or harassing** means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances, that would cause a reasonable person emotional distress and does cause emotional distress to another.

(B)

Transmission of Obscene Messages.

- (1) A person commits transmission of obscene messages when he or she sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or sires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois.
- (2) The trier of fact may infer intent to offend from the use of language or terms which are obscene, lewd or immoral.

(C)

Harassment by Telephone.

- (1) A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes:
 - (a) making any comment, request, suggestion or proposition which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;
 - (b) making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;
 - (c) making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;
 - (d) making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;
 - (e) making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under **thirteen (13) years of age**, regardless of whether the person under **thirteen (13) years of age** consents to the harassment, if the defendant is at least **sixteen (16) years of age** at the time of the commission of the offense; or
 - (f) knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.

- (2) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this Section. The notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "WARNING". All telephone companies in this State shall cooperate with law enforcement agencies in using their facilities and personnel to detect and prevent violations of this Article.

(See 720 ILCS 5/26.5)

27-2-38 TOBACCO AND ELECTRONIC SMOKING DEVICES.

(A) **Definitions.** For the purpose of this Section, the following words and phrases shall have the meanings respectively ascribed to them:

- (1) **Tobacco Products.** Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, nicotine gels and dissolvable nicotine products or any electronic smoking device.
- (2) **Electronic Smoking Device.** An electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other regulated substances. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, hookah pen, vape pens or any other product name or descriptor. An electronic smoking device excludes any product approved by the United States Food and Drug Administration as a nontobacco product used for medicinal purposes and is being marketed and sold solely for that approved purpose.

(B) **Purchases by Minors Prohibited.** It shall be unlawful for any person under the age of **twenty-one (21) years** to purchase tobacco products or electronic smoking devices, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products and electronic smoking devices.

(C) **Possession by Minors Prohibited.** It shall be unlawful for any person under the age of **twenty-one (21) years** to possess any tobacco products or electronic smoking devices, provided that the possession by a person under the age of **twenty-one (21) years** under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

(D) **Use in City Park.** It shall be unlawful for any person to smoke tobacco products and electronic smoking devices in the City Park.

27-2-39 MDPV AND KRATOM PROHIBITED.

(A) **Purposes.** This Section is enacted to protect, preserve and promote the health, safety and welfare of the citizens of the City by prohibiting the use, possession, distribution or delivery of any substance containing MDPV or Kratom as hereinafter defined, it being the specific finding of the City that such substances have a dangerous effect upon anyone using and/or ingesting said substances and have no medicinal or beneficial purposes.

(B) **Definitions.** When used in this Chapter, the following words have the meanings as hereinafter provided:

- (1) **Use.** The partaking, inhaling, smoking, consumption, ingestion or injection of MDPV or Kratom.
- (2) **Deliver.** The actual, constructive, or attempted transfer from one person to another of MDPV or Kratom, whether or not there is an agency relationship, and includes a sale.

- (3) **Distribute.** To deliver other than by administering or dispensing MDPV or Kratom.
- (4) **MDPV.** Includes any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers of 3.4 Methylenedioxyprovalerone, Methylone, Mephedrone, 4-methoxymethcathinone, 4-Fluormethcathinine, and 3-Fluoromethcathinone.
- (5) **Kratom.** Includes any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system: the leaves, bark, or other parts of a tropical tree known as "Mitragyna speciose" containing psychoactive opioid compounds, and sometimes known as: Herbal Speedball, Biak-Biak, Ketum, Kahuam, Ithang and Thom.
- (6) **Possess** means with the knowledge of the presence and nature of a substance. A person has actual possession if he has the substance on his person or within easy reach and convenient control. A person who, although not in actual possession, has the power and intention at a given time to exercise dominion or control over the substance either directly or through another person or persons is in constructive possession of it.

(C) **General Prohibition.** It shall be unlawful for any person to use, possess, distribute or delivery any substance containing MDPV or Kratom as defined in this Chapter.

27-2-40 FLAMMABLE LIQUIDS. It shall be unlawful for any person to keep or store any petroleum, naphtha, benzene, gasoline, coal-oil, kerosene, or any of the products of petroleum, or any flammable or explosive liquids within the space of **one thousand (1,000) feet** of any dwelling house, store room, building, barn, shed, or other like structure, within the corporate limits of the City in a quantity greater than **five (5) barrels of fifty (50) gallons** each at one time.

27-2-41 STORAGE OF DANGEROUS CHEMICALS.

(A) It shall be unlawful to store liquid propane or butane gas in a tank having a capacity of more than **one thousand (1,000) gallons** and to have more than **one (1) storage tank** at any **one (1) location** within the corporate limits of the City.

(B) It shall be unlawful to store anhydrous ammonia and low pressure nitrogen solution in aboveground storage tanks within the corporate limits of the City.

27-2-42 TOBACCO PRODUCTS PROHIBITED. No minor under the age of **eighteen (18) years** shall use or knowingly possess cigarettes or other tobacco products in any form at any time within the City limits. **(Ord. No. 07-14; 08-07-07)**

27-2-43 SCHOOL SAFETY. It shall be unlawful for any person within **one thousand (1,000) feet** of St. Thomas School or Jasper County Alternative Education/Safe School Program or any Jasper Community Unit School property to:

(A) Fail to obey a lawful order to disburse by a police officer when one or more persons are committing acts of disorderly conduct in the immediate vicinity; or

(B) Fail to obey a lawful order of disbursement by a person known to be a peace officer under circumstances under which one or more persons are committing acts of disorderly conduct in the immediate vicinity that is likely to cause harm or serious inconvenience, annoyance, or alarm; or

(C) Make or assist in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of a school session or class while school or any class is in session; or

(D) Engage in any violent, offensive, or disorderly conduct by threatening, quarreling, challenging to fight, or fighting or using obscene, offensive, profane, or unseemly language to the annoyance, disturbance or vexation of another, or is guilty of any conduct calculated to breach the peace or to incite violence; or

(E) Do or make any unreasonably or offensive act, utterance, gesture, or display that under the circumstances provokes, makes or aids in the making a breach of peace or act of violence.

(F) Violate any traffic or pedestrian rule, law or regulation of the City or the State of Illinois.

For purposes of this Section, "public place" shall mean public areas and any other locations open to the public whether publicly or privately owned. **(Ord. No. 07-05; 05-15-07)**

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

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ARTICLE III - OFFENSES AGAINST PROPERTY

27-3-1

PETTY THEFT. A person commits theft when he or she knowingly:

- (A) obtains or exerts unauthorized control over property of the owner; or
- (B) obtains by deception, control over property of the owner; or
- (C) obtains by threat, control over property of the owner; or
- (D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; or
- (E) obtains or exerts control over property in the custody of any law enforcement agency which any law enforcement officer or any individual acting in behalf of a law enforcement agency explicitly represents to the person as being stolen or represents to the person such circumstances as would reasonably induce the person to believe that the property was stolen; and
 - (1) intends to deprive the owner permanently of the use or benefit of the property; or
 - (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
 - (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.
- (F) It shall be unlawful to commit a theft.

(See 720 ILCS 5/16-1)

27-3-2

CRIMINAL DAMAGE TO PROPERTY. A person commits criminal damage to

property when he or she:

- (A) knowingly damages any property of another;
- (B) recklessly by means of fire or explosive damages property of another;
- (C) knowingly start a fire on the land of another;
- (D) knowingly injure a domestic animal of another without his or her consent;
- (E) knowingly deposits on the land or in the building of another any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building;
- (F) knowingly damages any property, other than as described in paragraph (2) of subsection (a) of Section 20-1, with intent to defraud an insurer;
- (G) knowingly shoots a firearm at any portion of a railroad train;
- (H) knowingly, without proper authorization, cuts, injures, damages, defaces, destroys, or tampers with any fire hydrant or any public or private fire-fighting equipment or any apparatus appertaining to firefighting equipment; or
- (I) intentionally, without proper authorization, opens any fire hydrant.

When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding nor not exceeding the specified value.

(See 720 ILCS 5/21-1)

27-3-3

INJURY TO UTILITY WIRES AND POLES.

It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric light post, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-4 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the City.

27-3-5 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(See 720 ILCS 5/32-9)**

27-3-6 **ELECTRONIC DEVICES TO KILL INSECTS.** No person shall operate, between the hours of **12:01 A.M.** and **6:00 A.M.** of any day, on any property zoned for residential use, any electrical device which emits an audible sound and is designed or used for the purpose of killing insects out-of-doors.

27-3-7 **USE OF BICYCLES, SCOOTERS, SKATEBOARDS, AND ROLLER SKATES.**
 (A) No person shall roller skate, ride a skateboard, ride or operate a scooter or bicycle on any part of the following locations during the scheduled annual events of the Newton Fall Festival, Newton Homecoming, Newton Arts Festival, and Newton Strawberry Fest, to-wit: **(Ord. No. 95-5; 05-16-95)**

- (1) The Courthouse lawn;
- (2) The 100 block of S. Jackson St. (located west of Courthouse Square) and that part of the 200 block of S. Jackson St. to the north edge of the first east/west alley, and any part of the adjoining sidewalks;
- (3) The 100 block of W. Washington St. (located south of the Courthouse Square) and that part of the 200 block of W. Washington St. to the east edge of the first north/south alley, and any part of the adjoining sidewalks;
- (4) Any part of the sidewalk located on the east edge of the 100 block of S. Van Buren St. (located east of Courthouse Square).

(B) The City shall post notice of the restrictions and prohibitions of this Section to inform the public of their existence.

(C) It is the duty of parents of any person under the age of **sixteen (16)** to cause such person to comply with the terms of this Section.

ARTICLE IV - PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE. A person commits disorderly conduct when he or she knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;

(B) transmits or causes to be transmitted in any manner to the Fire Department of any city, town, village or fire protection district, a false alarm of fire, knowing at the time of the transmission that there is no reasonable ground for believing that such fire exists;

(C) transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in a place where its explosion or release would endanger human life, knowing at the time of the transmission that there is no reasonable ground for believing that the bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in the place;

(D) transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session;

(E) transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being committed, or has been committed;

(F) transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting the report is necessary for the safety and welfare of the public; or

(G) calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency;

(H) transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the Abused and Neglected Child Reporting Act;

(I) transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, and ID/DD Community Care Act, or the MC/DD Act;

(J) transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that the assistance is required;

(K) transmits or causes to be transmitted a false report under Article II of Public Act 83-1432;

(L) enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(M) while acting as a collection agency as defined in the Collection Agency Act or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor.

(See 720 ILCS 5/26-1)

27-4-2 RESISTING OR OBSTRUCTING A PEACE OFFICER. A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(See 720 ILCS 5/31-1)**

27-4-3 **REFUSING TO AID AN OFFICER.** A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

- (A) apprehending a person whom the officer is authorized to apprehend; or
- (B) preventing the commission by another of any offense.

(See 720 ILCS 5/31-8)

27-4-4 **ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.**

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

- (1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.
- (2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:
 - (a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.
 - (b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.
 - (c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.
 - (d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."

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

27-4-5 **EXCAVATIONS.** It shall be unlawful for any person who owns, maintains, uses, abandons, any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing. This Section shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(720 ILCS 605/1)**

ARTICLE V - ANTI-LITTER

27-5-1 **DEFINITIONS.** For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the City.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 **LITTERING PROHIBITED.** No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 **PREVENTION OF SCATTERING.** Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 **RECEPTACLES - UPSETTING 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.
 (C) **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 object wherein the possibility of harm, injury or damage may occur as a result of such actions. **(Ord. No. 98-1; 01-06-98)**

27-5-8 **LITTERING FROM AIRCRAFT.** No person in an aircraft shall throw out, drop or deposit any litter within the City.

27-5-9 **LITTER IN PARKS.** No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 **HANDBILLS.**
 (A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 CONSTRUCTION SITES.

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces**.

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

27-5-15 CLEARING OF LITTER FROM OPEN PRIVATE PROPERTY BY THE CITY.
The procedure for the removal of litter from private premises and the charging of expense(s) thereof as a lien upon such property to be collected shall be in accordance with the state statutes. The Mayor or his designated representative shall be responsible for the implementation of this enforcement program.

(See 65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)

ARTICLE VI - TRESPASS

27-6-1 **TRESPASSES PROHIBITED.** It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

27-6-2 **SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION.** Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

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

ARTICLE VII - PARENTAL RESPONSIBILITY REGULATIONS

27-7-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

“ACTS OF VANDALISM AND SIMILAR OFFENSES” shall include any of the following acts:

- (A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the City, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or
- (B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or
- (C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or
- (D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or
- (E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

“LEGAL GUARDIAN” shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

“MINOR” shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

“PARENT” shall include the lawful father and mother of a minor child whether by birth or adoption.

“PROPERTY” shall include any real estate including improvements thereon and tangible personal property.

27-7-2 **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

- (A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and
- (B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the City, following said adjudication or non-judicial sanctions; and
- (C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(See 740 ILCS 115/1 et seq. and 740 ILCS 115/4)

ARTICLE VIII – TRUANCY CODE

27-8-1 **DEFINITIONS.** As used in this Article unless the context requires otherwise the following words or phrases shall mean 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:

"COURT" means the Fourth Judicial Circuit; Jasper County, Illinois.

"CUSTODIAN" means (1) the person who under court order is the custodian of the person of a minor or (2) a public or private agency with which the court has placed a minor or (3) a person acting in the role of a parent by reason of a private agreement, arrangement, custom, or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement or entertainment.

"GUARDIAN" means (1) parent or (2) a person who under court order is the guardian of the person of a minor; or (3) a public or private agency with which court has placed a minor.

"MINOR" means a person **seventeen (17) years** of age or younger. **(Ord. No. 05-02; 01-18-05)**

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian, or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee, or other agent of any school district or any federal, state, or local government entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute **(105 ILCS 5/26-1 et seq.)**.

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state, or local governmental entity or any counseling or social agency or any combination thereof recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.

"UNINCORPORATED AREA" means any area within Jasper County, Illinois, that is not included within the geographical area of an incorporated municipality.

27-8-2 **TRUANCY RESTRICTIONS.**

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory alternative education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(B) It is unlawful for any parent, custodian, or guardian of a minor to knowingly permit, or by insufficient control to allow the minor to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

It is a defense to prosecution under **Section 27-8-2(A)** or **27-8-2(B)** or **27-8-3** (hereinafter) that the minor was:

- (1) accompanied by a parent, guardian or responsible adult;
- (2) involved in an emergency;

- (3) going to or returning from medical appointment without any detour or stop;
- (4) engaged in, going to, or returning home from an employment activity pursuant to a cooperative school vocational program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternate education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-8-3 **ESTABLISHMENT RESTRICTIONS.** Owners, operators or employees of establishments are encouraged to not allow a minor to be present or to remain upon the premises of the establishment in violation of **Section 27-8-2** above during truancy hours.

27-8-4 **ENFORCEMENT RESTRICTIONS.**
 (A) Every member of the City Police Department while on duty is hereby authorized as follows:

- (1) For the first offense of any minor violating the provisions of this Article, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below.
- (2) For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Article (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian, or guardian of the minor unless subparagraph (C) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a police officer or truant officer witnesses or has knowledge based on reasonable grounds of violation of this Article by any person, such person may be issued a citation. A citation or complaint may be made to a police officer or truant officer by any person.

- (C) A citation issued hereunder this shall be in writing and shall:
- (1) state the name of the person being cited and the person's address, if known;
 - (2) set forth the specific section of this Article that was violated, the date of the violation, and a brief description of the violation;
 - (3) be signed by the issuing police officer, truant officer, or complaining party.

In each instance where a citation is issued to a minor for violation of this Article, a minor's parent, custodian, or guardian shall be provided a copy of the citation notifying the parent, custodian, or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Article must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, guardian, custodian, or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure

of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-2** of this Article, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-8-5 **PENALTY.**

(A) Any person who violates any provision of this Article shall upon conviction thereof be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**; and a separate offense shall be deemed to have been committed upon each day on which such violation occurs or continues.

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parents, guardian, custodian, or other adult person having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, guardian, custodian, or other adult person having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-6** hereinafter.

27-8-6 **CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the City Police Department, the parent, guardian, custodian, or other adult person having the legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, guardian, custodian, or other adult person having legal care or custody of a minor who has committed any offense of this Article shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing the provisions of this Article or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Article and subject the violator to the penalties described within **Section 27-10-5** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the County in collecting.

(Ord. No. 04-14; 12-21-04)

ARTICLE IX - OPEN BURNING

27-9-1 **DEFINITIONS.** Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

"GARBAGE OR HOUSEHOLD TRASH" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

27-9-2 **BURNING PROHIBITED.** It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage.

27-9-3 **RESTRICTIONS ON BURNING OF LANDSCAPE WASTE.** The open burning of landscape waste shall be permitted only on the following conditions:

(A) Landscape waste shall be burned on the premises on which such waste is generated; and

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C) Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D) Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E) No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F) No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

(G) All open burning shall occur between **8:00 A.M.** and **5:00 P.M.**; provided however, all fires shall be extinguished by sunset.

27-9-4 **BURNING PERMITTED.**

(A) The use of fire for the preparation of food on a barbeque grill or the use of an open fire on private property or other locations approved for cooking is permitted, provided such fire may only utilize wood or charcoal and be of such size so as not to endanger property in the immediate area.

(B) The use of indoor/outdoor fireplaces or fire pits are permitted, provided such fire shall utilize wood or charcoal and be of such size so as not to endanger the property in the immediate area.

(C) Bonfires used for ceremonial purposes or recreational events by families, schools, and other organizations are permitted, provided such bonfires may only utilize wood and be of such size so as not to endanger the properties in the immediate area.

(See 415 ILCS 5/1 et seq.)

ARTICLE X – SKATEBOARDS AND TOY VEHICLES

27-10-1 **DEFINITIONS.** As used in this Article, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(A) **Business District.** The City business district.

(B) **Skateboard.** A device with wheels for riding upon, usually standing, including, without limitations, skateboards of all types.

(C) **Toy Vehicles.** Coasters, scooters, roller skates, or any other non-motorized device with wheels or rollers upon which a person may ride. This definition does not apply, so long as they are used for the purposes for which they are intended, to wagons, wheelchairs and strollers or other devices designed and used for the purpose of transporting children, infants, physically challenged, or incapacitated persons, or to bicycles, or to carts or other devices intended and used for transporting merchandise or materials.

27-10-2 **SKATEBOARDING ON A STREET.** No person shall operate a skateboard or toy vehicle on a public street if there is a sidewalk adjacent to such street. If no sidewalk exists, skateboards may be ridden on the street providing street riding shall be done as far to the right side of the road as possible, and in the same direction as traffic.

27-10-3 **CLINGING TO A VEHICLE.** No person operating a skateboard, toy vehicle, or other non-motorized device shall attach himself or herself to any vehicle upon a roadway.

27-10-4 **YIELD RIGHT-OF-WAY.** Any person operating a skateboard or other toy vehicle must yield right of way to any pedestrian or motor vehicle.

27-10-5 **SKATEBOARDING ON PRIVATE PROPERTY.**

(A) No person shall operate a skateboard or toy vehicle on the premises of any business, residence, or other private property in violation of a sign complying with this Section.

(B) Areas in which skateboarding, or operation of a toy vehicle is prohibited must be indicated by one or more signs which are positioned to provide notice and which contain the words “No Skateboarding” or any other word or combination of words indicating that skateboarding or operation of a toy vehicle is prohibited. Letters on the sign must be clearly legible.

27-10-6 **SKATEBOARDING ON PUBLIC PROPERTY.** No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of any public property.

27-10-7 **SKATEBOARDING IN THE BUSINESS DISTRICT.** No person shall operate a skateboard or toy vehicle within the City’s business district.

27-10-8 **DAMAGING CITY PROPERTY.** No person shall operate a skateboard or toy vehicle on or against any municipal-owned table, bench, structure, tennis court, parking stop, retaining wall, fountain, statue, or other improvement which may suffer damage by such use.

27-10-9 **SKATEBOARD RAMPS.** No person shall use or place a ramp, jump, or any other device used to force a skateboard or toy vehicle off the pavement on the grounds of the municipal-owned parking lot, park or sidewalk.

27-10-10 **AGREEMENT FOR IMPOUNDMENT.** In place of any other penalty provided by law, any person violating this Article may, for a first offense, agree to have the skateboard or play vehicle impounded by the Police Department for **one (1) week**.

ARTICLE XI – ADULT USES REGULATED

27-11-1 PURPOSE AND ADDITIONAL FINDINGS.

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The City Council finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult-oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non-A, Non-B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.
- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Article.

27-11-2 **DEFINITIONS.** As used in this Article:

- (A) **"Adult Oriented Business"** means an establishment as defined in the City Code.
- (B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.
- (C) **"Nude"** means the showing of:
- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
 - (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
 - (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.
- (D) **"Person"** means any live human being aged **ten (10) years** of age or older.
- (E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.
- (F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-11-3 **PROHIBITION.** It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-11-4 **LIMITATION.** This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-11-5 **ADULT ENTERTAINMENT FACILITY.** It is prohibited within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

- (A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or
- (B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(See 65 ILCS 5/11-5-1.5)**

ARTICLE XII - OBSCENITY

27-12-1 **OBSCENITY.**

(A) **Elements of the Offense.** A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;
- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. (See 65 ILCS 5/11-5-1)

27-12-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) Definitions.

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D) Affirmative Defenses.

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
 - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail,

telephone, or similar means of communication and delivery of such harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

“NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor.”

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. (See 65 ILCS 5/11-5-1)

27-12-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS. Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. (See 720 ILCS 5/11-22)

27-12-4 PUBLIC NUDITY.

(A) **Purpose and Additional Findings.** It is the purpose of this Section to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Section to restrict or deny access by adults to, sexually oriented materials protected by the First Amendment. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material.

(B) **Definitions.** As used in this Section:

- (1) **“Entity”** means any business, commercial enterprise, proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.
- (2) **“Nude” or “Nudity” or “State of Nudity”** means the showing of:
 - (a) Human male or female genitals or pubic area with less than a fully opaque covering; or
 - (b) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing or covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or

- (c) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed; or
- (d) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) **"Person"** means any live human being.
- (4) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.
- (5) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organization. Premises, or portions thereof, such as hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

(C) **Prohibition.** It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

(D) **Penalty.** A person or entity violating this Section shall upon conviction be punished by a fine not exceeding **Seven Hundred Fifty Dollars (\$750.00)**. Each day of violation shall constitute a separate offense.

(E) **Injunction.** A person or entity violating this Section shall be subject to a suit for injunction as well as for criminal violations.

(F) **Limitation.** This Section shall not be deemed to address photographs, movies, video presentations, or any other non-live performances.

(Ord. No. 97-14; 09-30-97)

ARTICLE XIII – SMOKE FREE AIR CODE

27-13-1 **BACKGROUND.** Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort, and property of residents of the City, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places and places of employment, in and near open air public dining areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues.

27-13-2 **PURPOSE.** This Article may be cited as the "Smoke Free Air Code," the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within **twenty-five (25) feet** of all public entrances to such places, in open air public dining areas and within **twenty-five (25) feet** of such areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues in order to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

27-13-3 **DEFINITIONS.** For the purposes of this Article, the following terms shall have the following meanings:

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

"Club" means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members, and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

"Employee" means any person who is employed or retained by a business and shall include the owner or operator of a sole proprietorship or other similar business entity.

"Employer" means any business that employs one or more employees.

"Enclosed Area" means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

"Open Air Dining Area" means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engage in purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

"Outdoor Event" means a scheduled outdoor musical, dance, theatrical, dramatic, entertainment or performance event, or a scheduled outdoor community fair, parade, event or market, that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.

"Outdoor Venue" means an outdoor theater, amphitheater, plaza, street or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event that is organized, licensed or permitted by the owner of the venue.

"Place of Employment" means an area under the control of a public or private employer within the City that employees normally frequent during the course of employment, and includes, without

limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

"Park" means a public park or recreation area that is open to and used by the general public.

"Public Entrance" means the doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

"Public entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of employment; (i) that is open to and intended for use by the general public or business invitee's ingress and egress to the place of employment; (ii) where employees are required or permitted to enter or exit the place of employment.

"Public Place" means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

- (A) vehicles of public conveyance;
- (B) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;
- (C) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and City-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments.

(D) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the City where there is in progress any public meeting.

"Public place" shall not include:

- (A) a private dwelling unit, unless said dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or
- (B) hotel or motel rooms designated as smoking, provided that no more than **twenty percent (20%)** of the available rooms for rent in any single building shall be designated as smoking rooms.

"School Grounds" mean all public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

"Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

27-13-4 PROHIBITION IN ENCLOSED PUBLIC PLACES.

- (A) It is unlawful to smoke in any enclosed area of any public place.
- (B) It shall be unlawful for the owner, occupant or lessee, as the case may be, who is in control of a public place to knowingly permit smoking in any enclosed area in a public place.

27-13-5 **PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.**

- (A) It is unlawful to smoke in the following unenclosed public places:
- (1) The seating areas of all outdoor arenas, stadiums and amphitheaters.
 - (2) Public parks and recreation areas.
 - (3) School grounds.
 - (4) Public sidewalks within **fifteen (15) feet** of a public entrance but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
 - (5) Public sidewalks within **fifteen (15) feet** of an open-air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
- (B) It is unlawful to smoke in or within **fifteen (15) feet** of an outdoor venue during the time that an outdoor event is taking place.

27-13-6 **PROHIBITION IN PLACES OF EMPLOYMENT.**

- (A) It is unlawful to smoke in any enclosed area of any place of employment.
- (B) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

27-13-7 **PROHIBITION IN OPEN AIR DINING AREAS.**

- (A) It is unlawful to smoke in open air dining area.
- (B) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of an open-air dining area to knowingly permit smoking in the area available for open air dining.
- (C) it is unlawful to smoke within **fifteen (15) feet** of an open-air dining area.

27-13-8 **PROHIBITION AT PUBLIC ENTRANCES.**

- (A) It is unlawful to smoke within **fifteen (15) feet** of a public entrance to a public place or to a place of employment.
- (B) It is unlawful for any person or persons to gather or congregate for the purpose of smoking within **fifteen (15) feet** of a public entrance.

27-13-9 **DESIGNATION OF OTHER NO-SMOKING AREAS.** Nothing in this Article shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Article as a place where smoking is also prohibited, provided that the owner, occupant or lessee shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

27-13-10 **NO RETALIATION.** No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Article or exercises by rights afforded by this Article.

27-13-11 **SIGNS.**

- (A) Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, **four (4) inches** high with a **one-half (1/2) inch** face or shall bear the international "No

Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

(B) Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school ground, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area or school ground.

(C) Each owner, lessor, lessee, management company or other person in control of an outdoor venue shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the outdoor venue during outdoor events.

27-13-12 **EXEMPTIONS.** The prohibition on smoking set forth in Section 6-35 and 6-37 shall not apply to a public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.

27-13-13 **PENALTIES.**

(A) Any person who smokes in an area where smoking is prohibited under the provisions of this Article shall be guilty of an offense punishable by:

- (1) A fine of not less than **Twenty-Five Dollars (\$25.00)** for a first violation.
- (2) A fine of not less than **Fifty Dollars (\$50.00)** for a second violation.
- (3) A fine of not less than **One Hundred Dollars (\$100.00)** and not more than **Five Hundred Dollars (\$500.00)** for a third and subsequent violation(s).

(B) Any person who owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Article, shall be guilty of an offense punishable by a fine of (i) not less than **One Hundred Dollars (\$100.00)** for the first violation, (ii) not less than **Two Hundred Fifty Dollars (\$250.00)** for the second violations, and (iii) not less than **Five Hundred Dollars (\$500.00)** for each additional violation thereafter, unless said additional violation has occurred within **one (1) year** after the first violation, in which case the minimum fine shall be not less than **One Thousand Dollars (\$1,000.00)**. The maximum amount of fine to be levied herein shall not exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** for each violation.

(C) Each day that any violation of this Article shall continue shall constitute a separate offense.

ARTICLE XIV - SYNTHETIC DRUGS

27-14-1 **DEFINITIONS.**

(A) As used in this Section, "Synthetic cannabinoid" means any laboratory-created compound that functions similar to the active ingredient in marijuana, tetrahydrocannabinol (THC), including but not limited to, any quantity of a natural or synthetic material, compound, mixture, preparation, substance and their analog 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-entyl-3-(1-naphthoyl)indole);
 JWH-019 (1-hexyl-3-(nephthalen-1-oyl)indole);
 JWH-073 (naphthalene-1-yl-(1-butyindol-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-1,2,5-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-2yl)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-nephthalenylmethanone);
 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).
 1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole (XLR11)

(B) "Synthetic stimulant" means any compound which is a 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 which has a stimulant effect on the central nervous system. Upon banning, any of the following substances or substances which contain the described characteristics shall be considered a "synthetic stimulant":

3-Fluoromethcathinone;
 4- Fluoromethcathinone (other name: flephedrone);
 3,4-Methylenedioxy-methcathinone (other name: methylone, MDMC);
 3,4-Methylenedioxypropylvalerone (other name: MDPV);
 4-Methylmethcathinon (other names: mephedrone, 4-MMC);
 4-Methoxymethcathinone (other names: methedrone, bk-PMMA, PMMC);
 4-Ethylmethcathinone (other name: 4-EMC);
 Ethcathinone;
 Beta-keto-N-methylbenzodioxolypropylamine (other names: butylone, bk-MBDB);
 Naphthylpyrovalerone (other names: naphyrone, NRG-1);
 N,N-dimethylcathinone (other name: metamfepramone);

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-kihydro-5H-indeno(5,6-d)-1,3-dioxal-6-amine (other name: MDAI)

Any compound that is structurally derived from 2-amino-1-phenyl-1propanone 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.

27-14-2 **UNLAWFUL SALE OR DELIVERY OF SYNTHETIC SUBSTANCES.** It shall be unlawful for any person to sell, offer for sale or deliver any product containing a synthetic cannabinoid or synthetic stimulant.

27-14-3 **UNLAWFUL POSSESSION OF SYNTHETIC SUBSTANCES.** It shall be unlawful for any person to knowingly possess a product containing a synthetic cannabinoid or synthetic stimulant.

27-14-4 **PENALTIES FOR VIOLATION.**

(A) Any person found to be in violation of **Section 27-14-2** and/or **27-14-3** shall be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereof.

(B) **Separate Violations.** Each violation of this Article, or every day a violation continues to exist, shall constitute a new and separate violation.

(Ord. No.13-5; 05-07-13)

ARTICLE XV - REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-15-1 **DEFINITIONS.** The following definitions apply to this Section:

(A) A **“Child Sex Offender”** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **“Child Sex Offender”** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **“Child Sex Offender”** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**See 720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**See 720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**See 720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**See 720 ILCS 5/11-9**);
- (5) Child luring (**See 720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**See 720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**See 720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**See 720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**See 720 ILCS 5/11-19.2**);
- (10) Child pornography (**See 720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**See 720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**See 720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**See 720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**See 720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**See 720 ILCS 5/10-3 or 5/10-3.1**).

(B) **“School”** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **“Loiter”** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **“Park”** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term “Park” shall also include any privately owned recreational area upon which the City has been authorized by its owner to patrol and enforce the ordinances contained in this Code. The term “Park” shall also include ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

27-15-2 **PROHIBITED ACTS.**

(A) It is unlawful for a child sex offender to reside within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **one thousand five hundred (1,500) feet** of any of the following, unless the person loitering is with a child under the age of **eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(C) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to employ a sex offender within **one thousand five hundred (1,500) feet** of any festival or other event which is open to the public.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

27-15-3 **PENALTY.** Any person found guilty of violating paragraphs (A) or (B) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraphs (C) or (D) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager or other entity violating paragraphs (C) or (D) of **Section 27-15-2** shall be presumed to have had knowledge of the employee's or tenant's status as a child sex offender, where the employee's or tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-15-4 **OTHER PROVISIONS.**

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property or school property and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

ARTICLE XVI – CANNABIS BUSINESS ESTABLISHMENTS PROHIBITED

27-16-1 **DEFINITIONS.** The following words and phrases shall, for the purposes of this Section have the meanings respectively ascribed to them by this Section, as follows:

(A) **Adult-Use Cannabis Business Establishment.** A cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

(B) **Adult-Use Cannabis Craft Grower.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(C) **Adult-Use Cannabis Cultivation Center.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(D) **Adult-Use Cannabis Dispensing Organization.** A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(E) **Adult-Use Cannabis Infuser Organization or Infuser.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(F) **Adult-Use Cannabis Processing Organization or Processor.** A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(G) **Adult-Use Cannabis Transporting Organization or Transporter.** An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time to time, and regulations promulgated thereunder.

(H) **Person.** Any person, firm, corporation, association, club, society or other organization, including any owner, manager, proprietor, employee, volunteer or agent.

27-16-2 **CANNABIS BUSINESS ESTABLISHMENT PROHIBITED.** The following Adult-Use Cannabis Business Establishments are prohibited in the City. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation within the City of any of the following:

- (A) Adult-Use Cannabis Craft Grower
- (B) Adult-Use Cannabis Cultivation Center
- (C) Adult-Use Cannabis Dispensing Organization
- (D) Adult-Use Cannabis Infuser Organization or Infuser

- (E) Adult-Use Cannabis Processing Organization or Processor
- (F) Adult-Use Cannabis Transporting Organization or Transporter

27-16-3 **PUBLIC NUISANCE DECLARED.** Operation of any prohibited Cannabis Business Establishment within the City in violation of the provisions of this Section is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

(See Section 1-1-20 for Penalties)

(Ord. No. 19-15; 12-03-19)

ARTICLE XVII – DRUG PARAPHERNALIA

27-17-1 **DEFINITIONS.**

(A) **"Cannabis"** shall have the meaning ascribed it in Section 3 of the "Illinois Cannabis Control Act" as if that definition were incorporated herein.

(B) **"Controlled Substance"** shall have the meaning ascribed to it in Section 102 of the "Illinois Controlled Substance Act" as if that definition were incorporated herein.

(C) **"Drug Paraphernalia"** shall mean all equipment, products and materials of any kind which are peculiar to and/or 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 Substances Act." It includes but is not limited to:

- (1) Kits peculiar to and/or marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
- (2) Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (3) 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;
- (4) Diluents and adulterant peculiar to and marketed for cutting cannabis or a controlled substance by private persons;
- (5) Objects peculiar to and/or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - (a) water pipes;
 - (b) carburetion tubes and devices;
 - (c) smoking and carburetion masks;
 - (d) miniature cocaine spoons and cocaine vials;
 - (e) carburetor pipes;
 - (f) electric pipes;
 - (g) air-driven pipes;
 - (h) chillums;
 - (i) bongs;
 - (j) ice pipes or chillers;
- (6) Any item whose purpose, as announced or described by the seller is for use in violation of this act.

27-17-2 **POSSESSION OF CANNABIS OR CONTROLLED SUBSTANCE.** It shall be unlawful for any person to use, possess, distribute or deliver any cannabis or controlled substance as defined in this Article.

27-17-3 **POSSESSION OF DRUG PARAPHERNALIA.**

(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, is guilty of a violation of this Article.

(B) In determining intent under paragraph (A) the trier of fact may take into consideration the proximity of the cannabis or a controlled substance on the drug paraphernalia.

27-17-4 **EXEMPTIONS.**

(A) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of cannabis or controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(B) Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or inhaling of tobacco or any other lawful substance.

Items exempt under this Article include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(C) Items listed in **Section 27-17-1** of this Article which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Article.

In determining whether or not a particular item is exempt under this Section, the trier of fact should consider, in addition to all other logically relevant factors, the following:

- (1) The general, usual, customary, and historical use to which the item involved has been put;
- (2) Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;
- (3) Any written instruction accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
- (4) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
- (5) Any national or local advertising concerning the design, purpose or use of the item involved and the entire context in which such advertising occurs;
- (6) The manner, place and circumstances in which the items was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
- (7) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products;
- (8) The existence and scope of legitimate uses for the object in the community.

27-17-5 **PENALTY.** Any person or entity violating this Article shall be subject to a fine of not more than **Seven Hundred Fifty Dollars (\$750.00)** plus court costs.

ARTICLE XVIII – CANNABIS

27-18-1 DEFINITIONS. All defined terms used in this Article which are not expressly defined herein shall have the meaning ascribed to such term in the Cannabis Control Act, as used in this Article, unless the context otherwise requires.

(A) **"Cannabis"** shall have the meaning ascribed it in Section 3 of the Cannabis Control Act, as if that definition were incorporated herein.

(B) **"Delivery or Delivery"**: The actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.

(C) **"Drug Paraphernalia"** shall mean all equipment, products and materials of any kind which are used, intended 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 in violation of the Cannabis Control Act. It includes, but is not limited to:

- (1) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis.
- (2) Isomerization devices used or designed for use in increasing the potency of any species of plant which is cannabis.
- (3) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of cannabis.
- (4) Scales and balances used, intended for use or designed for use in weighing or measuring cannabis.
- (5) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose used, intended for use or designed for use in cutting cannabis.
- (6) Separation gins and sifters used, intended for use or designed in removing twigs and seeds from, or in otherwise cleaning or refining cannabis.
- (7) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding cannabis.
- (8) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of cannabis.
- (9) Containers and other objects used, intended for use or designed for use in storing or concealing cannabis.
- (10) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting cannabis into the human body.
- (11) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana into the human body, such as:
 - (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, or punctured metal bowls.
 - (b) Water pipes.
 - (c) Carburetion tubes and devices.
 - (d) Smoking and carburetion masks.
 - (e) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
 - (f) Miniature cocaine spoons and cocaine vials.
 - (g) Chamber pipes.
 - (h) Carburetor pipes.
 - (i) Electric pipes.

- (j) Air-driven pipes.
- (k) Chillums.
- (l) Bongs.
- (m) Ice pipes or chillers.

In determining whether an object is "drug paraphernalia," a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any state or federal law relating to any controlled substance.
- (3) The proximity of the object in time and space to direct violation of this Article.
- (4) The proximity of the object to cannabis.
- (5) The existence of any residue of cannabis on the object.
- (6) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom he knows or should reasonably know intend to use the object to facilitate a violation of the Cannabis Control Act. The innocence of an owner or of anyone in control of the object as to a direct violation of the Cannabis Control Act shall not prevent a finding that the object is intended for use or assigned for use as "drug paraphernalia."
- (7) Instructions, oral or written, provided with the object concerning its use.
- (8) Descriptive materials accompanying the object which explain or depict its use.
- (9) National and local advertising concerning its use.
- (10) The manner in which the object is displayed for sale.
- (11) Whether the owner or anyone in control of the object is a legitimate supplier of like to related items to the community, such as a licensed distributor or dealer of tobacco products.
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- (13) The existence and scope of legitimate uses for the object in the community.
- (14) Expert testimony concerning its use.

(D) **"Manufacturer":** 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 "manufacturer" 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.

(E) **"Person":** Any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust partnership or association, or any other entity.

(F) **"Produce or Production":** Planting, cultivating, tending or harvesting.

(G) **"Product Containing a Synthetic Alternative Drug":** Any product containing a "synthetic cannabinoid", stimulant or psychedelic/hallucinogen as those items are defined herein, or a drug that is misbranded or falsely advertised as a product containing a synthetic alternative drug.

(H) **"State":** Includes 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.

(I) **"Synthetic Cannabinoid":** Any 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, substances and their analog (including isomers, esters, ethers, salts, and salts of isomers) containing a cannabinoid receptor agonist.

27-18-2 **UNLAWFUL USE OR POSSESSION OF DRUG PARAPHERNALIA.** It is unlawful for any person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cannabis in violation of the Cannabis Control Act.

27-18-3 **POSSESSION OF NOT MORE THAN TEN (10) GRAMS OF CANNABIS.** It is unlawful for any person to knowingly possess not more than **ten (10) grams** of any substance containing cannabis. Any person who violates this Section shall be fined in an amount not to be less than **Four Hundred Dollars (\$400.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, and the costs of prosecution and the attorney's fees of the City in a minimum amount of **One Hundred Seventy-Five Dollars (\$175.00)** per hour. **Twenty-five percent (25%)** of the fine shall be deposited to the City's General Fund and **seventy-five percent (75%)** of the fine shall be deposited to the Newton Police Department Administrative Fund, to be used for the administration and enforcement of ordinance violations.

27-18-4 **DELIVERY OR INTENT TO DELIVER DRUG PARAPHERNALIA.** It is unlawful for any person to deliver, possess with intent to deliver or manufacture within tent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, inject, inhale or otherwise introduce into the human body in violation of the Cannabis Control Act. Any person who violates this Section shall be fined in an amount not to be less than **Three Hundred Dollars (\$300.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, and the costs of prosecution and the attorney's fees of the City in a minimum amount of **One Hundred Seventy-Five Dollars (\$175.00)** per hour. **Twenty-five percent (25%)** of the fine shall be deposited to the City's General Fund and **seventy-five percent (75%)** of the fine shall be deposited to the Newton Police Department Administrative Fund, to be used for the administration and enforcement of ordinance violations.

(Ord. NO. 17-03; 04-04-17)

EXHIBIT "A"

POW	Spice Gold	Swagger Grape
Pulse	Black Mamba	Naughty Nights
K2 Watermelon	Green Monkey Chronic Salvia	Voodoo Remix
G Greenies Caramel Crunch	Black Diamond	Blueberry Hayze
Eruption Spice	Love Strawberry	Voodoo Child
Mid-Atlantic Exemplar	K2 Summit	Magic Dragon Platinum
Fire Bird Ultimate Strength	Nitro	Black Magic Salvia
Cinnamon		
K2 Strawberry	K2 Blueberry	Wicked X
Love Strawberry	Shanti Spice Blueberry	Azteo Midnight Wind
		Tezeatlipoea
Sativah	Mid-Atlantic Exemplar (K2 Summit)	Aztec Gold
Ultra Cloud 10	Colorado Chronic	K3 Kryptonite
Funky Monkey XXXX	K2 Blue	K2 Blonde
K2 Pink	K2 Citron	K2 Mellon
K2 Pineapple	K2 Standard	S1. S. Werve
Chronic Spice	K3 Mango	K3 Original
XTREME Spice	Stinger	Mystery
Bad 2 the Bone	Dragon Spice	Samurai Spirit
Buzz	Midnight Chill	K Royal
Spicylicious	Shanti Spice	K3 Grape
K3 Strawberry	K3 Blueberry	Earthquake
Ocean Blue	G Four	Wood Stock
K3 Legal	Who Dat	Dark Night II
Spike 99 Ultra	2010	Zombie World
SYN Swagg	SYN Smooth	Spike Maxx
Spike Diamond	Spike Silver	K2 Pineapple Express
K2 Blueberry	K2 Pink	MNGB Tropical Thunder
MNGB Pinata Colada	MNGB Almond Vanilla	MNGB Peppermint
MNGB Spear Mint	p.e.p. pourri Twisted Vanilla	p.e.p. pourri Original Spearmint
p.e.p. pourri Love Strawberry	p.e.p. pourri X Blueberry	Voo Doo Remix (orange
package)		
Voo Doo Remix (black package)	Banana Cream Nuke	K4 Silver
K4 Gold	K3 Heaven Improved	K3 Heaven Legal
K3 Sun Legal	K3 Sun Improved	K3 XXX
K3 Cosmic Blend	C4	K1 Gravity
K1 Orbit	K2 Pina Colada	Rasta Citrus Spice
Kind Spice	Time Warp	Pink Tiger
Humboldt Gold	K2 Orisha Regular	K2 Orisha Max
K2 Orisha Super	K2 Amazonian Shelter	K2 Solid Sex on the Mountain
Midnight Chill	Unknown Cigarette	Freedom
K2 Sex	K2 Orisha White Magic Super	K2 Orisha Black Magic Max
K2 Thai Dream	K4 Bubble Bubble	MTN-787
K2 Kryptonite	Legal Eagle Apple Pie	K4 Purple Haze
K4 Summit Remix	8-Ball	C4 K2
Tribal Warrior	Spike 99	exSES
Spice Silver	Spice Gold	Spice Diamond
SYN Spearmint	SYN Spearmint #2	SYN Chill
SYN Suave	Heavenscent Suave	SYN Vanilla
SYN Vanilla #2	SYN Lemon Lime	SYN Lemon Lime #2
New K3 Improved Blend	C4 Herbal Incense	New Improved K3 Cosmic
New Improved K3 Dynamite	New Improved K3 Kryptonite	Utopia
Utopia Blueberry	Euphoria	Who Dat Herbal

Incense Love Potion 69	Legal Eagle	Super Kush
Bayou Blaster	Paradise	Red Bird
Magic Spice	Voodoo Magic	Texas Gold
Demon	K3	K2 Pink Panties
Heaven Improved	K3 Sun	K3 Dusk
K3 Original Improved	New K3 Heaven	New K3 Earth
New K3 Sea Improved	New-Kron Bomb	Cherry Bomb
Rebel Spice	Mega Bomb	Mr. Smiley's
Summer Skyy	Moe Joe Fire	Fully Loaded
Da Block	Back Draft	K1 Orbit
K1 Gravity	C3	SYN Incense Smooth
SYN Incense Spearmint	SYN Incense Lemon Lime	Super Summit
D-Rail	K2 Peach	Funky Monkey
K2 Summit Coffee Wonk (Black)	K3 Legal – Original (Black)	K-3 Legal – Sun
K3 Legal – Sea (silver)	K3 Legal – Earth (silver)	K2 Cloud 9
Greenies Strawberry	K2 (unknown variety)	Space
K2 Latte	K2 Mint	K2 Silver
Spike Gold	Yucutan Fire	Smoke
Skunk	Sence	EX-SES Platinum Blueberry
EX-SES Platinum Cherry Vanilla	EX-SES Platinum Strawberry	EX-SES Platinum Magic Silver
Spice Artic Synergy	Spice Tropical Synergy	Spicey Regular XXX Blueberry
Spicey Regular XXX Strawberry	Spicey Ultra Strong XXX Vanilla	Spicey Ultra Strong XXX Strawberry
Spike 99 Ultra Blueberry	Spike 99 Ultra Cherry	Spike 99 Ultra Strawberry
Chill Out	Forest Humus	Scope Vanilla
Scope Wildberry	Chill X	Silent Black
Caneff	Gold Spirit Spice	Magic Gold
Bombay Blue	Dream	Smoke Plus
Diamond Spirit	Mojo	Genie
Potpourri Gold	Jamaican Gold	Potpourri
Winter Boost	Citrus	Spicey XXX
Ex-SES Platinum		Bizarro

CHAPTER 30 – PUBLIC SAFETY

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CHAPTER 30

PUBLIC SAFETY

ARTICLE I – LOCAL STATE OF EMERGENCY

30-1-1 **DEFINITIONS.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(A) **Emergency.**

- (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by **three (3)** or more persons acting together without authority of law; or
- (2) Any natural disaster, epidemic, or man-made calamity, including outbreak of disease, flood, conflagration, cyclone, tornado, earthquake, or explosion, or eminent threat of any of those events within the corporate limits of the City, resulting in or threatening the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(B) **Curfew.** A prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the city except officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 **DECLARATION.** Whenever an emergency, as defined in **Section 30-1-1(A)** exists, the Mayor is authorized to declare the existence of a Local State of Emergency by means of a written *declaration* of the Mayor, under oath, setting forth the facts which constitute the emergency, describing the nature of the emergency and declaring that a Local State of Emergency exists in accordance with the definitions set forth in this Section. This declaration must be filed with the City Clerk as soon as practicable after issuance.

30-1-3 **CURFEW AUTHORIZED.** After proclamation of a Local State of Emergency by the Mayor he or she may order a general curfew applicable to such geographical areas of the City or to the City as a whole, as he or she deems reasonable and advisable, and applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare.

30-1-4 **ORDERS AUTHORIZED.** After the proclamation of a Local State of Emergency, the Mayor may also, in the interest of public safety and welfare, and to address this issue caused threatened by the emergency, may take any or all of the following actions by executive order during the state of emergency.

- (A) All actions reasonably necessary to respond to the emergency;
- (B) Approve previously appropriated expenditures of the City for the purpose of continuing the operations of the City; and
- (C) In the event the Local State of Emergency extends beyond the current fiscal year and a new budget has not been approved, the Mayor shall be authorized to approve new spending by the City during the existence of the Local State of Emergency.
- (D) Order the closing of all retail liquor stores, including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(E) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(F) Order the discontinuance of selling, distributing or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(G) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

30-1-5 **DURATION.** The declaration herein authorized shall be effective for a period of **fourteen (14) days** or until the adjournment of the next regular or special meetings of the City Council, whichever comes first, unless sooner terminated by a proclamation of the Mayor, or, his or her interim emergency successor, indicating that the civil emergency no longer exists. The Mayor or his or her interim emergency successor, shall have the power to reproclaim the existence of an emergency at the end of each **fourteen (14) day** period during the time said emergency exists.

30-1-6 **NOTICE.** Upon issuing the proclamation herein authorized, the City Clerk shall notify the news media situated within the City, and shall cause **four (4) copies** of the proclamation *declaring* the existence of the emergency and any curfew to be posted at the following places within the City:

- (A) The City Hall.
- (B) The Police Station.
- (C) The Post Office.
- (D) In the area of any curfew.

30-1-7 **VIOLATIONS.** Any person violating the provisions of this Section or executive orders issued pursuant hereto shall be guilty of an offense against the City and shall be punished as provided by **Section 1-1-20** of the City Code.

30-1-8 **EFFECT ON OTHER ORDINANCES.** Nothing contained in this Section shall be construed to impair the powers contained in this Code, giving powers to the Police and Fire Departments, but shall be construed together with existing ordinances now in effect for the safety and welfare of the citizens of the City.

(65 ILCS 5/11-1-6)

(20 ILCS 3305/11)

ARTICLE II - POLICE DEPARTMENT

DIVISION I - DEPARTMENT ESTABLISHED

30-2-1 **DEPARTMENT ESTABLISHED.** There is hereby established a department of the municipal government of the City which shall be known as the Police Department. The Police Department shall consist of the Chief of Police and of such number of patrolmen as may be provided from time to time by the City Council.

30-2-2 **OFFICE OF CHIEF CREATED.** There is hereby established the office of the Chief of Police. The Chief of Police shall be appointed by the Mayor with the advice and consent of the City Council for a term of **one (1) year**.

30-2-3 **DUTIES OF CHIEF.** The Chief of Police shall keep records and make reports concerning the activities of his department as may be required. The Chief shall be responsible for the performance of the Police Department, of all its functions, and all persons who are members of the department shall serve subject to the orders of the Chief of Police.

30-2-4 **APPOINTMENT OF PATROLMEN.** A sufficient number of 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. 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.

30-2-5 **SALARY.** The police department shall receive such compensation as may be provided by ordinance or resolution of the City Council.

30-2-6 **DUTIES.** The policeman shall devote his entire time to the performance of the duties of his office and is hereby charged with the preservation of the peace, order and safety of the City and with the duty of protecting the rights of persons and property and of enforcing all laws and also orders of the City Council. He shall take notice of all nuisances, obstructions and defects on the highways or other public places, and shall cause the same to be abated or removed, or immediate notice thereof given to the proper officer whose duty it may be to take action in relation thereto. When requested by the Mayor he shall attend, either in person or by deputy, all meetings of the City Council, execute all its orders and close the Council Chamber upon the adjournment of that body. He shall also execute all warrants or other legal process required to be executed by him under any ordinance of the City or laws of the State of Illinois.

30-2-7 **MUTUAL AID CONTRACT.** The Police Department, with the approval of the City Council, may enter into an agreement to provide police protection to neighboring municipalities.

30-2-8 **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.

30-2-9 **LEGAL PROCESSES.** All police shall have the power and authority to execute City warrants or other similar legal processes outside the corporate limits of the City and within such distance therefrom as authorized by law in all cases when any ordinance of the City Council made pursuant to law shall prescribe a penalty for the violation of any of its provisions by persons residing, acting or doing any business within the limits of the City.

30-2-10 **ASSISTING POLICE OFFICER.** Every police officer of the City may, at any time, call upon any able-bodied person(s) above the age of **eighteen (18) years** to aid him in the arresting, retaking or holding in custody of any person guilty of having committed any unlawful act or charged therewith, or to aid such officer in preventing the commission of any unlawful act.

30-2-11 **AIDING FIRE DEPARTMENT.** Every police officer shall aid the fire department by giving the alarm in case of fire and in clearing the streets or grounds in the immediate vicinity of any fire so that the firemen shall not be hindered or obstructed in the performance of their duties.

30-2-12 **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.

30-2-13 **AIDING IN ESCAPE.** It shall be unlawful for any person in this City to resist or obstruct any member of the Police Force in the discharge of his duty or to endeavor to do so, in any manner, assist any person in the custody of any member of the Police Department to escape or to attempt to escape from such custody or to attempt to rescue any such person in custody.

30-2-14 **USE OF INTOXICATING LIQUOR.** No member on an active tour of duty or while wearing the official policeman's badge of the City shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

30-2-15 **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.

30-2-16 **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, the City Council shall be binding on such members.

30-2-17 **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.

30-2-18 **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the City. **(See City Code, Chapter 4)**

30-2-19 **ILLINOIS LAW ENFORCEMENT ALARM SYSTEM.** It has determined that it is in the best interest of the City to enter into a certain Illinois Law Enforcement Alarm System – Mutual Aid Agreement which is attached hereto and incorporated herein by this reference as **Exhibit A.** **(Ord. No. 04-17; 12-21-04)**

30-2-20 - 30-2-32 **RESERVED.**

(65 ILCS 5/11-1-2)

DIVISION II – PART-TIME POLICE

30-2-33 **EMPLOYMENT.** The City may employ part-time police officers from time to time as it deems necessary.

30-2-34 **DUTIES.** A part-time police officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the General Orders of the City Police Department, but the number of hours a part-time officer may work within a calendar year is restricted. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (**50 ILCS 705/1 et seq.**) and the rules and requirements of the Illinois Law Enforcement Training and Standards Board.

30-2-35 **HIRING STANDARDS.** Any person employed as part-time police officer must meet the following standards:

- (A) Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
- (B) Be at least **twenty-one (21) years** of age.
- (C) Pass a medical examination.
- (D) Possess a high school diploma or GED certificate.
- (E) Possess a valid State of Illinois driver's license.
- (F) Possess no prior felony convictions.
- (G) Any individual who has served in the U.S. military must have been honorably discharge.

30-2-36 **DISCIPLINE.** Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time police officers serve at the discretion of the City authorities, shall not have any property rights in said employment, and may be removed by the City authorities at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Police Department.

(Ord. No. 12-3; 03-06-12)

ARTICLE III - EMERGENCY MANAGEMENT AGENCY (EMA)**30-3-1 POLICY AND PROCEDURES.**

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To designate a liaison officer to the Emergency Management Agency (EMA) of Jasper County, Illinois;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter (**65 ILCS 5/11-1-6**).
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency management operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary. (**20 ILCS 3305/11**)

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-3-2 LIMITATIONS. Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the City Council to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

30-3-3 **DEFINITIONS.** As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action, public health emergencies, or acts of domestic terrorism.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation, preparedness, response and recovery.

(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 (includes pets and service animals).

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-3-4 **EMERGENCY MANAGEMENT AGENCY.**

(A) There is hereby created an emergency management agency and a coordinator of the emergency management agency, herein called the "coordinator", who shall be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Council. He shall serve at the pleasure of the Mayor.

(B) The Emergency Management Agency shall obtain, with Council approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C) The coordinator, subject to the direction and control of the Mayor, shall be the executive head of the Municipal Emergency Service and Disaster Agency, and shall be responsible under the direction of the Mayor for carrying out the program for emergency management operations of this municipality. He shall coordinate the activities of all organizations for emergency management operations within this municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor or any persons designated by him, shall be and act as coordinator until a new appointment is made as provided in this Code.

(D) The Municipal Emergency Management Agency shall take an integral part in the development and revision of the local City plan or County plan or both.

(E) In the development of the emergency operations plan, the municipal emergency management agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Municipal Emergency Management Agency shall:

- (1) Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;

- (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;
- (3) Biannually review and revise the local Emergency Operations Plan;
- (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
- (5) Establish a register of government and private response resources available for use in a disaster;
- (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
- (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
- (8) Initiate and coordinate planning for:
 - (a) The establishment of an emergency operating center;
- (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-3-5**EMERGENCY MANAGEMENT POWERS OF THE MAYOR.**

(A) The Mayor shall have the general direction and control of the emergency management agency and shall be responsible for the carrying out of the provisions of this Code.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

(C) In performing his duties under this Code, the Mayor is further authorized:

- (1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him.
- (2) To cause to be prepared a comprehensive plan and program for the emergency management of this municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:
 - (a) Prevention and minimization of injury and damage caused by disaster;
 - (b) Prompt and effective response to disaster;
 - (c) Emergency relief;
 - (d) Identification of areas particularly vulnerable to disasters;
 - (e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
 - (f) Assistance to local officials in designing local emergency action plans;
 - (g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;
 - (h) Organization of municipal manpower and chains of command;
 - (i) Coordination of local emergency management activities;
 - (j) Other necessary matters.
- (3) In accordance with such plan and program for the emergency management of this municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute training programs and public information

programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.

- (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency management agency as its office.

30-3-6 FINANCING.

(A) It is the intent of the City Council and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the City Council's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the county a disaster, he may make application for funds from the state disaster relief fund, if/when such funds become available. If monies are not 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. **(20 ILCS 3305/9)**

30-3-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or his/her interim emergency successor, provided in Section 7 of the "Emergency Interim Executive Succession Act." It shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the City Council. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the City Council meets at such time, he shall act subject to the directions and restrictions imposed by that body.

30-3-8 MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS.

The coordinator for emergency management operations may, in collaboration with other public agencies within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery assistance in case a disaster is too great to be dealt with unassisted. The mutual

aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-3-3** of this Code, it shall be the duty of each local and department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements. **(20 ILCS 3305/13)**

30-3-9 **COMMUNICATIONS.** The local Emergency Management Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate. **(20 ILCS 3305/14)**

30-3-10 **IMMUNITY.** Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency management operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress. **(20 ILCS 3305/15)**

30-3-11 **PROFESSIONS, TRADES AND OCCUPATIONS.** If such disaster as is described in **Section 30-3-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the coordinator of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality. **(20 ILCS 3305/16)**

30-3-12 **APPROPRIATIONS AND LEVY OF TAX.** The City Council may make appropriations for emergency management operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The City Council may also levy for emergency management operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

30-3-13 **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. **(20 ILCS 3305/17)**

30-3-14 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 Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-3-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The Emergency Management Agency established pursuant to this Code, and the coordinator thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois Emergency Management Agency Act. The local Emergency Management Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency. **(20 ILCS 3305/18)**

30-3-15 UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL. In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency management agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency management agency. **(20 ILCS 3305/19)**

30-3-16 SEVERABILITY. If any provision of this Code or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect such other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Code are hereby declared to be severable.

30-3-17 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 Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore. **(20 ILCS 3305/21)**

30-3-18 **SUCCESSION.** In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the coordinator of the emergency management agency shall succeed to the duties and responsibilities of the Mayor. **(20 ILCS 3305/11(A))**

30-3-19 **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.

30-3-20 **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 Management Agency, and which oath shall be substantially as follows:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the City, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

(20 ILCS 3305/20)

30-3-21 **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 30-3-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-3-22 **PENALTY.** Any person convicted of violating this Code or any order thereunder shall be punished, upon conviction, by a fine as provided by **Section 1-1-20** of this Code.

(20 ILCS 3305/1 et seq.)

EXHIBIT "A"

ILLINOIS LAW ENFORCEMENT ALARM SYSTEM

MUTUAL AID AGREEMENT

The undersigned law enforcement agencies agree pursuant to the Constitution of the State of Illinois (Ill. Const. Art. VII, sec. 10), the Illinois Intergovernmental Cooperation Act (**5 ILCS 220/1 et seq.**), the Local Governmental and Governmental Employees Tort Immunity Act (**745 ILCS 10/7-101 et seq.**) and the Illinois Municipal Code (**65 ILCS 5/11-1-2.1**), as follows:

Section 1. Purpose of Agreement.

This Agreement is made in recognition of the fact that natural or man-made occurrences may result in emergencies that exceed the resources, equipment and/or law enforcement personnel of a law enforcement agency. Each law enforcement agency who signs a copy of this Agreement has and does express its intent to aid and assist the other participating law enforcement agencies during an emergency by assigning some of their resources, equipment and/or law enforcement personnel to the affected law enforcement agency as circumstances permit and in accordance with the terms of this Agreement. The specific intent of this Agreement is to safeguard the lives, persons and property of citizens during an emergency by enabling other law enforcement agencies to provide additional resources, equipment and/or law enforcement personnel as needed.

Section 2. Definitions.

For the purpose of this Agreement, the following terms are defined as follows:

Aiding law enforcement agency: A participating law enforcement agency that provides resources, equipment and/or law enforcement personnel to a stricken law enforcement agency during an emergency.

Disaster: An occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological 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, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, or acts of domestic terrorism.

Emergency: A natural or man-made situation that threatens or causes loss of life and property and exceeds the physical and organizational capabilities of a unit of local, state or federal government.

Law enforcement personnel: An employee of a participating law enforcement agency who is a peace officer (as defined by state law and the Illinois Law Enforcement Training and Standards Board or federal law) and by virtue of his office or public employment, is vested by the state or federal law with the primary duty of maintaining public order and making arrests for violations of state or federal law.

Mutual aid: A definite and prearranged written agreement and plan whereby regular response and assistance is provided in the event of a natural or man-made emergency.

Participating law enforcement agencies: A law enforcement agency that commits itself to this mutual aid agreement by having an authorized representative sign this Agreement.

State: The term *state* refers exclusively to the State of Illinois.

Stricken law enforcement agency: A participating law enforcement agency who has primary jurisdiction over the site of the emergency but due to insufficient resources, equipment and/or law enforcement personnel is unable to provide an adequate response to an emergency without the assistance of others.

Section 3. Agreement to Effectuate the Mutual Aid Plan.

Each undersigned party agrees that in the event of an emergency, they will respond to requests for assistance by a stricken law enforcement agency with such law enforcement personnel, equipment, facilities, or services as is, in the opinion of the aiding law enforcement agency, available. Provided, however, that each party reserves the right to refuse to render assistance or to recall any or all rendered assistance, whenever it believes that such refusal or recall is necessary to ensure adequate protection of its own jurisdiction or personnel.

It is expected that requests for mutual aid under this Agreement will be initiated only when the needs of the stricken agency exceed its resources. Aiding agencies will be released or returned to their own jurisdictions as soon as the situation is restored to the point where the stricken agency is able to satisfactorily handle the situation with its own resources or when an aiding agency decides to recall its assistance.

Whenever an emergency is of such magnitude and consequence that it is deemed advisable by the senior officer present, of the stricken law enforcement agency, to request assistance from an aiding law enforcement agency, he is hereby authorized to do so, under the terms of this mutual aid agreement. The senior officer present of the aiding law enforcement agency is authorized to and shall forthwith take the following actions:

- Immediately determine what type of assistance is being requested.
- Immediately determine if the requested resources, equipment and/or law enforcement personnel can be committed to the stricken law enforcement agency.
- Immediately dispatch the resources, equipment and/or law enforcement personnel that are available to the stricken law enforcement agency.

At the emergency site, the most senior officer of the stricken law enforcement agency who is present shall assume full responsibility and command for operations at the scene. Law enforcement personnel from the aiding agencies shall report to and shall work under the direction and supervision of the stricken agency. Provided, however, that at all times, the personnel of the aiding agencies shall remain employees of their own agency and shall adhere to the policies and procedures of their own employer. While working under the direction of the aiding agency, law enforcement personnel shall only be required to respond to lawful orders.

All services performed under this Agreement shall be rendered without reimbursement, regardless of the possibility of reimbursement from the requesting agency or other sources. Each participating law enforcement agency shall assume sole responsibility for indemnifying their own employees, as provided by state or federal law and/or local ordinance, and for providing personnel benefits, including benefits that arise due to injury or death, to their own employees as required by state or federal law. Each participating agency shall also be responsible, regardless of fault, for repairing or replacing any damage to their own vehicles or equipment that occurs while providing assistance under this Agreement.

The participating agencies agree that this Agreement shall not give rise to any liability or responsibility for the failure to respond to any request for assistance made pursuant to this Agreement. This Agreement shall not be construed as or deemed to be an Agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action whatsoever hereunder for any cause whatsoever.

The participating agencies further agree that each agency will be responsible for defending their own respective entity in any action or dispute that arises in connection with or as the result of this Agreement and that each agency will be responsible for bearing their own costs, damages, losses, expenses, and attorney fees.

The chief law enforcement officers of the participating agencies will maintain a governing board and establish an operational plan for giving and receiving aid under this Agreement. Said plan will be reviewed, updated and tested at regular intervals.

Section 4. Adoption.

This mutual aid agreement shall be in full force and an in effect when approved and executed by a representative of a participating law enforcement agency who has the legal authority to sign and enter into this Agreement on behalf of his law enforcement agency.

Section 5. Termination.

Any participating law enforcement agency may withdraw from this Agreement upon giving **ninety (90) days** written notice addressed to each of the other participating agencies.

(Ord. No. 04-17; 12-21-04)

CHAPTER 31 – RECREATION AND PARKS

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CHAPTER 31

RECREATION AND PARKS

ARTICLE I – GENERALLY

31-1-1 **CITY PARKS.** There is hereby established parks known as the City Parks.

31-1-2 **USE OF PARK.** City Parks shall be kept open for public use at all times, provided that when the same is let out for any purpose it shall during such time be under the control of the person or organization that received the privilege. The park shall never be let out for such a purpose or period of time as to divert its use from that of a public park. It shall always be open for picnics and parties and the public shall be permitted to enjoy the accommodations and improvements thereon; provided this shall not operate to conflict with privileges which may have been granted by the Council to any organization or person.

31-1-3 **PRIVILEGES.** No person shall maintain or operate any stand, booth or other place where anything is sold in the park except on privilege granted by the Council and the payment of such fee as they may fix. No person shall be authorized at any time to sell any intoxicating liquor of any kind, or give the same away in the park, nor shall any gambling be permitted.

31-1-4 **CLOSING HOURS IN PUBLIC PARKS.** All City parks will be closed to the public between the hours of **10:30 P.M.** and **5:00 A.M.** It shall be unlawful to be in the parks after hours.

31-1-5 **ALCOHOL PROHIBITED.** No alcohol shall be consumed in City parks. **(See Chapter 21 – Article III)**

31-1-6 **DUFRAIN PARK PARKING RESTRICTIONS.** No motor vehicle weighing in excess of **seven thousand five hundred (7,500) pounds** gross weight or semi-tractor trailer of any weight shall stand or park, whether occupied or not, in DufRAIN Park or at any other location where official signs prohibiting such standing or parking are erected. **(Ord. No. 00-08; 07-18-00)**

31-1-7 **RESTRICTION OF USE OF IN-LINE SKATES, SCOOTERS, SKATEBOARDS AND ROLLER SKATES.**

(A) No person shall roller skate, ride a skateboard, in-line skate, or operate a scooter within any park of the City of Newton, Illinois.

(B) The City shall post notice of the restrictions and prohibitions of this Section to inform the public of their existence.

(C) It is the duty of parents of any person under the age of **sixteen (16)** to cause such person to comply with the terms of this Section.

(D) The minimum penalty to be levied for violation of this Section shall be the sum of **One Hundred Dollars (\$100.00)** plus costs. **(Ord. No. 01-19; 07-17-01)**
(See Chapter 27 – Article X)

CHAPTER 33 – STREET REGULATIONS

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CHAPTER 33

STREET REGULATIONS

ARTICLE I – DEPARTMENT ESTABLISHED

33-1-1 **DEPARTMENT ESTABLISHED.** There is hereby established a Department of the municipal government which shall be known as the **Street Department**. It shall embrace the Street Committee, the Superintendent, and the employees. The City Engineer shall serve as ex-officio officer.

33-1-2 **COMMITTEE ON STREETS.** The City Council Standing Committee on Streets shall exercise a general supervision over the affairs of the Street Department. It shall ascertain the needs and conditions thereof and shall, from time to time, report the same to the Mayor and City Council.

ARTICLE II - GENERAL REGULATIONS

33-2-1 **UNDERMINING.** No person shall undermine in any manner, any street or any other ground or real estate situated in the City or belonging to any private person.

33-2-2 **OPEN DOORS.** No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the City for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

33-2-3 **CLOSING STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Street Department 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 Street Department. 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.

33-2-4 **SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the City, unless he has written approval of the City Council. **(65 ILCS 5/11-80-17)**

33-2-5 **VEHICLES AND SKATEBOARDS ON SIDEWALKS.** No person shall operate any skateboard or motor vehicle on or over any sidewalk, except in crossing the same to go into a yard or parking lot.

33-2-6 **DEPOSITS ON SIDEWALKS AND STREETS.** It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four (4) feet**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes**.

33-2-7 **OBSTRUCTING STREET.**

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the City, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(65 ILCS 5/11-80-3)**

33-2-8 **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.

33-2-9 **BUILDING MATERIALS IN STREET.** The Street Superintendent may move any obstruction on any street or sidewalk of the City, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(65 ILCS 5/11-80-3)**

33-2-10 **MERCHANDISE ON PUBLIC STREET.** It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the City Council. **(65 ILCS 5/11-80-3)**

33-2-11 **ENCROACHMENTS.** It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-12 **POSTING BILLS.** It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

33-2-13 **SIGNS ON POLES.** No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

33-2-14 **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 **BARBED-WIRE FENCES.** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **three (3) feet** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **eight (8) feet** above the level of such public place.

33-2-16 **BURNING ON PUBLIC STREETS.** It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

33-2-17 **GRASS MOWING.** Property owners and/or their tenants shall be jointly and separately responsible for mowing the grass or weeds between the property lines and the adjoining street surfaces. The height of the grass or weeds shall not exceed **eight (8) inches**.

33-2-18 **DATUM PLANE.** There shall be established a datum plane, within the City, by reference to which said datum plane, grades, elevations, and altitudes may be measured, reckoned, fixed and determined in and about the conduct of public and private work by or for the City and its inhabitants.

The datum plane herein established is sea level, being coincident with a horizontal plane passing through a point **534.80 feet** below the top surface of a certain geological monument, consisting of an iron post with a brass cap or plate thereon, placed in the Court House Square, in the City, near the northeast corner of the square, by the United States of America in cooperation with the State of Illinois, in the year **1910** and known as Station No. 8, which monument fixes the height above sea level at the point of said monument at **534.80 feet**.

33-2-19 **NUMBERING BUILDINGS AND LOTS.** The following order of numbering homes, vacant lots and business buildings and other areas in the City shall be followed:

- (A) All homes, vacant lots, business buildings and areas covered by railroad tracks should be sequentially numbered within the corporate limits of the City.
- (B) All locations on the south side of East-West streets should bear even numbers.
- (C) All locations on the north side of East-West streets should bear odd numbers.
- (D) All locations on the east side of North-South streets should bear even numbers.
- (E) All locations on the west side of North-South streets should bear odd numbers.

(F) All new areas annexed to the City should be sequentially numbered to denote proper location of residential and commercial locations in relation to the preceding block. Each lot in each block should be assigned a sequential number at the time of platting said lot and block to ensure compliance with these recommendations.

(G) Should there not be a block prior to the one being numbered, then the numbers allotted to the annexed block should take into consideration the void area to allow for proper numbering.

(H) All homes within the corporate limits of the City shall have the proper number affixed to the house and that number should be used as the mailing address for that location.

(I) Rural route designations for mailing addresses within the corporate limits of the City should not be used.

(J) Should a location encompass more than **one (1) lot space**, then a sequential number that is in the closest approximation to the point designated as the entrance shall be used as the address number for that house or building.

(K) Should there be more than **one (1) dwelling** located on **one (1) lot**, or should a dwelling have an apartment located therein with a separate entrance, then the dwelling shall be properly numbered sequentially, with the apartment bearing a number the same as the primary dwelling plus a number of **one-half (1/2)** added to the major or primary dwelling number.

(L) Should an apartment complex contain more than **one (1) apartment**, then only the major dwelling should bear the proper sequential number and the apartments should be internally numbered from one to the highest number of units within the complex, on the front door of each apartment.

(M) The base streets in all cases for numbering shall be Van Buren running in the north and south direction and Jourdan Street running in the east and west direction.

(N) It shall be the responsibility of the Jasper County Emergency Telephone System Board or their designee to assign house numbers on future developments.

33-2-20 **ALLEY IMPROVEMENT.** No person shall improve an alley within the City until they have first complied with each of the following conditions:

(A) Secured at their sole expense and supplied to the City a Survey made by an Illinois Registered Land Surveyor to establish and mark the boundaries of the alley right-of-way.

(B) Supplied to the City their plans for the improvement of the alley together with their estimated cost of the labor and materials necessary to complete the improvement. Also such plans and completed improvements must include the following:

- (1) The improvement of the alley from street to street.
- (2) The clearing of the alley of all brush and trees.
- (3) The installation of a **six (6) inch** thick base of CA-6 stabilizer stone on the entire alley in accordance with **Exhibit A** attached.
- (4) The construction of the base shall not interfere with the natural flow of surface drainage unless side ditches are provided to drain the water along the alley.
- (5) The installation of suitably sized culvert pipe under the alley where required.
- (6) As an alternative to the installation of CA-6 as above specified, the black topping of the alley may be proposed and completed if:
 - (a) the alley to be black topped has been approved by the City Council before work begins.
 - (b) the alley to be black topped has been City maintained with oil and chips at the time of the proposal.
 - (c) a minimum of **two and one-half (2 ½) inches** of black top must be applied when the alley is black topped.
 - (d) the City's portion of the cost of black topping shall be limited to what it would cost the City to maintain the alley over a **twenty (20) year** period. The cost to the City will be based on the current cost of one prime coat and four seal coats. The total of

these five operations shall be the City's maximum participation in the cost of black topping the alley.

(C) Shall make a deposit with the City of an amount equal to the estimated cost of material and labor to improve the alley in accordance with the plans approved by the City Council. The deposit will remain with the City until the work is completed to the City's satisfaction.

(D) Obtain permission of the City Council to improve the alley in accordance with the plans submitted and deposits made with the City.

(Ord. No. 04-3; 05-18-04)

ARTICLE III - TREES AND SHRUBS

33-3-1 **PLANTING.** It shall be unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the City Council. All trees and shrubs so planted shall be placed subject to the directions and approval of the City Council.

33-3-2 **PLANTING TREES IN RIGHT-OF-WAY.** It shall be unlawful to plant any bushes, trees, shrubs or other plants on the right-of-way of any public street, including the space on the right-of-way between the sidewalk and the adjacent street pavement.

33-3-3 **REMOVAL.** It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any street, parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the City Council before permission shall be granted.

33-3-4 **INJURY.** It shall be unlawful to injure any tree or shrub planted in such public place.

33-3-5 **ADVERTISEMENTS OR NOTICES.** It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway, or other public place.

33-3-6 **DANGEROUS TREES.** Any tree or shrub which overhangs any sidewalk, street or other public place in the municipality at a height less than **eight (8) feet** or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.

Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

The Street Superintendent may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.

33-3-7 **WIRES.** It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the City Council.

Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Street Superintendent so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct.

33-3-8 **GAS PIPES.** Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

(65 ILCS 5/11-80-2)

ARTICLE IV

CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

33-4-1 **PURPOSE AND SCOPE.**

(A) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

(B) **Intent.** In enacting this Article, the City intends to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
- (5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
- (6) preserve the character of the neighborhoods in which facilities are installed;
- (7) preserve open space, particularly the tree-lined parkways that characterize the City's residential neighborhoods;
- (8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
- (9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(C) **Facilities Subject to this Article.** This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

(D) **Franchises, Licenses, or Similar Agreements.** The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Article.

(E) **Effect of Franchises, Licenses, or Similar Agreements.**

- (1) **Utilities Other Than Telecommunications Providers.** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
- (2) **Telecommunications Providers.** In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(F) **Conflicts With Other Articles or Chapters.** This Article supersedes all Articles or Chapters or parts of Articles or Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(G) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(H) **Sound Engineering Judgment.** The City shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

33-4-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

"AASHTO": American Association of State Highway and Transportation Officials.

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

"Backfill": The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring": To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable Operator": That term as defined in 47 U.S.C. 522(5).

"Cable Service": That term as defined in 47 U.S.C. 522(6).

"Cable System": That term as defined in 47 U.S.C. 522(7).

"Carrier Pipe": The pipe enclosing the liquid, gas or slurry to be transported.

"Casing": A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"City": The City of Newton.

"Clear Zone": The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

"Coating": Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Conductor": Wire carrying electric current.

"Conduit": A casing or encasement for wires or cables.

"Construction" or "Construct": The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

"Cover": The depth of earth or backfill over buried utility pipe or conductor.

"Crossing Facility": A facility that crosses one or more right-of-way lines of a right-of-way.

"Disrupt the Right-of-Way": For the purposes of this Article, any work that obstructs the right-of-way or causes a material adverse affect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

"Emergency": Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

"Encasement": Provision of a protective casing.

"Engineer": The City Engineer or his or her designee.

"Equipment": Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation": The making of a hole or cavity by removing material, or laying bare by digging.

"Extra Heavy Pipe": Pipe meeting ASTM standards for this pipe designation.

"Facility": All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term "facility" shall not include any facility owned or operated by the City.

"Freestanding Facility": A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road": Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

"Hazardous Materials": Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the City Engineer or Superintendent of Public Works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

"Highway Code": The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

"Highway": A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

"Holder": A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

"Jacking": Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting": Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use": The use of pole lines, trenches or other facilities by two or more utilities.

"J.U.L.I.E.": The Joint Utility Locating Information for Excavators utility notification program.

"Major Intersection": The intersection of two or more major arterial highways.

"Occupancy": The presence of facilities on, over or under right-of-way.

"Parallel Facility": A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Parkway": Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut": The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee": That entity to which a permit has been issued pursuant to **Sections 33-4-4 and 33-4-5** of this Article.

"Practicable": That which is performable, feasible or possible, rather than that which is simply convenient.

"Pressure": The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

"Petroleum Products Pipelines": Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

"Prompt": That which is done within a period of time specified by the City. If no time period is specified, the period shall be **thirty (30) days**.

"Public Entity": A legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Restoration": The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

"Right-of-Way" or "Rights-of-Way": Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. "Right-of-way" or "rights-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

"Roadway": That part of the highway that includes the pavement and shoulders.

"Sale of Telecommunications at Retail": The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

"Security Fund": That amount of security required pursuant to **Section 33-4-10**.

"Shoulder": A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

"Sound Engineering Judgment": A decision(s) consistent with generally accepted engineering principles, practices and experience.

"Superintendent of Public Works": The Superintendent of Public Works or his or her designee, hereinafter referred to as "Superintendent".

"Telecommunications": This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

"Telecommunications Provider": Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

"Telecommunications Retailer": Means and includes every person engaged in making sales of telecommunication at retail as defined herein.

"Trench": A relatively narrow open excavation for the installation of an underground facility.

"Utility": The individual or entity owning or operating any facility as defined in this Article.

"Vent": A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Video Service": That term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

"Water Lines": Pipelines carrying raw or potable water.

"Wet Boring": Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

33-4-3 ANNUAL REGISTRATION REQUIRED. Every utility that occupies right-of-way within the City shall register on **January 1** of each year with the Superintendent, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-4-8** of this Article, in the form of a certificate of insurance.

33-4-4 PERMIT REQUIRED; APPLICATIONS AND FEES.

(A) **Permit Required.** No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any City right-of-way which:

- (1) changes the location of the facility;
- (2) adds a new facility;
- (3) disrupts the right-of-way (as defined in this Article), or
- (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Superintendent and obtaining a permit from the City therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(C) **Minimum General Application Requirements.** The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- (1) The utility's name and address and telephone and telecopy numbers;
- (2) The applicant's name and address, if different than the utility, its telephone, telecopy number, e-mail address, and its interest in the work;
- (3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.
- (4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- (5) Evidence that the utility has placed on file with the City:
 - (a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - (b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;
- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- (7) Evidence of insurance as required in **Section 33-4-8** of this Article;
- (8) Evidence of posting of the security fund as required in **Section 33-4-10** of this Article;

- (9) Any request for a variance from one or more provisions of this Article (**See Section 33-4-21**); and
- (10) Such additional information as may be reasonably required by the City.

(D) **Supplemental Application Requirements for Specific Types of Utilities.** In addition to the requirements of paragraph (C) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- (1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control have been satisfied; or
- (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(E) **Applicant's Duty to Update Information.** Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within **thirty (30) days** after the change necessitating the amendment.

(F) **Application Fees.** Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a base fee in the amount of **One Hundred Dollars (\$100.00)**. Additional application review costs will vary with the complexity of the project and will be determined on a case-by-case basis and shall be paid prior to issuance of final permit. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act. (**Ord. No. 22-07; 04-05-22**)

(G) **Street Excavations/Cutting/Boring.** Any person desiring to connect, to repair, or maintain any type of City Utility located inside of City Limits which would involve street excavations, street cutting or boring under a street shall be required to obtain a permit for same from the City. Such permit shall require a deposit of **Five Hundred Dollars (\$500.00)** to the City Clerk prior to commencing any work allowed under said permit. Such deposit is for the purpose of ensuring that any work is done in a workmanlike manner with all damage to roads, streets and easements properly repaired and to ensure compliance with all terms, conditions of the Installation Requirements contained in the Permit all of which are incorporated herein by reference. Upon completion of the work allowed by the Permit, the City shall be notified and allowed to inspect the work. If such work has been performed satisfactorily and no unmitigated damage exist, the deposit shall be returned to the person making the deposit. Otherwise, the deposit shall be forfeited to the City to cover any such damage. Nothing herein contained shall limit the liability of any person who has caused damage to the City above and beyond the amount of the deposit. (**Ord. No. 22-07; 04-05-22**)

33-4-5 ACTION ON PERMIT APPLICATIONS.

(A) **City Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Superintendent within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall reject such application in writing, stating the reasons therefor. If the Superintendent is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Superintendent, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

(B) **Additional City Review of Applications of Telecommunications Retailers.**

- (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Article for facilities for the provision of

telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than **ten (10) days** prior to the commencement of work requiring no excavation and not less than **thirty (30) days** prior to the commencement of work requiring excavation. The Superintendent shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.

- (2) In the event that the Superintendent fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) days** after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.
- (3) Upon the provision of such specification by the City, where a permit is required for work pursuant to **Section 33-4-4** of this Article the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of paragraph (A) of this Section.

(C) **Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007.** Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted **forty-five (45) days** after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances, and regulations.

33-4-6 **EFFECT OF PERMIT.**

(A) **Authority Granted; No Property Right or Other Interest Created.** A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Article on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.

(B) **Duration.** No permit issued under this Article shall be valid for a period longer than **six (6) months** unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(C) **Pre-Construction Meeting Required.** No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(D) **Compliance With All Laws Required.** The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules, and regulations.

33-4-7 **REVISED PERMIT DRAWINGS.** In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within **ninety (90) days** after the completion of the permitted work. The revised

drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with **Section 33-4-21** of this Article. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

33-4-8 **INSURANCE.**

(A) **Required Coverages and Limits.** Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs (1) and (2) below:

- (1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:
 - (a) **Five Million Dollars (\$5,000,000.00)** for bodily injury or death to each person;
 - (b) **Five Million Dollars (\$5,000,000.00)** for property damage resulting from any one accident; and
 - (c) **Five Million Dollars (\$5,000,000.00)** for all other types of liability;
- (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of **One Million Dollars (\$1,000,000.00)** for personal injury and property damage for each accident;
- (3) Worker's compensation with statutory limits; and
- (4) Employer's liability insurance with limits of not less than **One Million Dollars (\$1,000,000.00)** per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

(B) **Excess or Umbrella Policies.** The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

(C) **Copies Required.** The utility shall provide copies of any of the policies required by this Section to the City within **ten (10) days** following receipt of a written request therefor from the City.

(D) **Maintenance and Renewal of Required Coverages.** The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until **thirty (30) days** after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Administrator of such intent to cancel or not to renew."

Within **ten (10) days** after receipt by the City of said notice, and in no event later than **ten (10) days** prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

(E) **Self-Insurance.** A utility may self-insure all or a portion of the insurance coverage and limit requirements required by paragraph (A) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under paragraph (A), or the requirements of paragraphs (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its

financial ability to self-insure the insurance coverage and limit requirements required under paragraph (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(F) **Effect of Insurance and Self-Insurance on Utility's Liability.** The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

(G) **Insurance Companies.** All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. All insurance carriers and surplus line carriers shall be rates "A-" or better and of a class size "X" or higher by A.M. Best Company.

33-4-9 **INDEMNIFICATION.** By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the City, its officials, officers, employees, agents or representatives.

33-4-10 **SECURITY.**

(A) **Purpose.** The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve a security for:

- (1) The faithful performance by the permittee of all the requirements of this Article;
- (2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Article; and
- (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Article or any other applicable law.

(B) **Form.** The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this paragraph shall, at a minimum:

- (1) Provide that it will not be canceled without prior notice to the City and the permittee;

- (2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
- (3) Shall provide a location convenient to the City and within the State of Illinois at which it can be drawn.

(C) **Amount.** The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Superintendent, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Superintendent may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The City, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the **fourteen (14) day** notice period. Withdrawals may be made if the permittee:

- (1) Fails to make any payment required to be made by the permittee hereunder;
- (2) Fails to pay any liens relating to the facilities that are due and unpaid;
- (3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- (4) Fails to comply with any provision of this Article that the City determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

(F) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in paragraph (C) of this Section.

(G) **Closing and Return of Security Fund.** Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(H) **Rights Not Limited.** The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

33-4-11 PERMIT SUSPENSION AND REVOCATION.

(A) **City Right to Revoke Permit.** The City may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

- (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;

- (2) Noncompliance with this Article;
- (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice of Revocation or Suspension.** The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this **Section 33-4-11.**

(C) **Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.** Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

- (1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;
- (2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within **five (5) working days** after receipt of the written notice of revocation; or
- (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within **ten (10) days** after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this paragraph.

(D) **Stop Work Order.** In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within paragraph (A) of this Section.

(E) **Failure or Refusal of the Permittee to Comply.** If the permittee fails to comply with the provisions of paragraph (C) of this Section, the City or its designee may, at the option of the City:

- (1) correct the deficiencies;
- (2) upon not less than **twenty (20) days** notice to the permittee, remove the subject facilities or equipment; or
- (3) after not less than **thirty (30) days** notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

33-4-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(A) **Notification of Change.** A utility shall notify the City no less than **thirty (30) days** prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

(B) **Amended Permit.** A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right-of-way.

(C) **Insurance and Bonding.** All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

33-4-13 **GENERAL CONSTRUCTION STANDARDS.**

(A) **Standards and Principles.** All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

- (1) Standard Specifications for Road and Bridge Construction;
- (2) Supplemental Specifications and Recurring Special Provisions;
- (3) Highway Design Manual;
- (4) Highway Standards Manual;
- (5) Standard Specifications for Traffic Control Items;
- (6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- (7) Flagger's Handbook; and
- (8) Work Site Protection Manual for Daylight Maintenance Operations.

(B) **Interpretation of Municipal Standards and Principles.** If a discrepancy exists between or among differing principles and standards required by this Article, the Superintendent shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Superintendent shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

33-4-14 **TRAFFIC CONTROL.**

(A) **Minimum Requirements.** The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(B) **Warning Signs, Protective Devices, and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(C) **Interference with Traffic.** All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(D) **Notice When Access is Blocked.** At least **forty-eight (48) hours** prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to **Section 33-4-20** of this Article, the utility shall provide such notice as is practicable under the circumstances.

(E) **Compliance.** The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

33-4-15 **LOCATION OF FACILITIES.**

(A) **General Requirements.** In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this paragraph.

- (1) **No Interference with City Facilities.** No utility facilities shall be placed in any location if the Superintendent determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.
- (2) **Minimum Interference and Impact.** The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.
- (3) **No Interference with Travel.** No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.

- (4) **No Limitations on Visibility.** No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
- (5) **Size of Utility Facilities.** The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.
- (B) **Parallel Facilities Located Within Highways.**
- (1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:
- 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;
 - 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;
 - 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;
 - No pole is located in the ditch line of a highway; and
 - Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.
- (2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:
- 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;
 - A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-way line or as near as practicable.
- (C) **Facilities Crossing Highways.**
- (1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- (2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
- (3) **90 Degree Crossing Required.** Crossing facilities shall cross at or as near to a **ninety (90) degree** angle to the centerline as practicable.
- (4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:
- It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);

- (b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and
- (c) Overhead crossings at major intersections are avoided.
- (5) **Underground Power or Communication Facility.** An underground power or communication facility may cross a highway only if:
 - (a) The design materials and construction methods will provide maximum maintenance-free service life; and
 - (b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) **Markers.** The City may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(D) **Facilities to be Located Within Particular Rights-of-Way.** The City may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(E) **Freestanding Facilities.**

- (1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
- (2) The City may require any freestanding facility located within a right-of-way to be screened from view.

(F) **Facilities Installed Above Ground.** Above ground facilities may be installed only if:

- (1) No other existing facilities in the area are located underground;
- (2) New underground installation is not technically feasible; and
- (3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

(G) **Facility Attachments to Bridges or Roadway Structures.**

- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
- (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - (a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - (b) The type, length, value, and relative importance of the highway structure in the transportation system;

- (c) The alternative routings available to the utility and their comparative practicability;
- (d) The proposed method of attachment;
- (e) The ability of the structure to bear the increased load of the proposed facility;
- (f) The degree of interference with bridge maintenance and painting;
- (g) The effect on the visual quality of the structure; and
- (h) The public benefit expected from the utility service as compared to the risk involved.

(H)

Appearance Standards.

- (1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

33-4-16

(A)

Methods.**CONSTRUCTION METHODS AND MATERIALS.****Standards and Requirements for Particular Types of Construction**(1) **Boring or Jacking.**

- (a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Superintendent from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- (b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.
- (c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.
- (d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- (e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the City to be preserved shall be bored under or around the root system.

(2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 IDOT's "Standard Specifications for Road and Bridge Construction".

- (a) **Length.** The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open

- trench at any time unless special permission is obtained from the Superintendent.
- (b) **Open Trench and Excavated Material.** Open trench and wind rowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
- (c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the City to be preserved.
- (3) **Backfilling.**
- (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
- (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Superintendent, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Superintendent.
- (4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be discouraged but may be permitted only upon location specific approval by the Superintendent and only if that portion of the roadway is closed to traffic.
- (a) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Superintendent.
- (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.
- (c) All saw cuts shall be full depth.
- (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.
- (5) **Encasement.**
- (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.

- (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
 - (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.
 - (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
 - (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair and
 - (ii) cathodic protection of the pipe is provided;
 - (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- (6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Electric Lines	30 inches (0.8m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6m, as Determined by City)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B) **Standards and Requirements for Particular Types of Facilities.**

- (1) **Electric Power or Communication Lines.**
 - (a) **Code Compliance.** Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.
 - (b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is

- no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- (c) **Underground Facilities.**
- (i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.
 - (ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:
 - a. the crossing is installed by the use of "moles", "whip augers", or other approved method which compress the earth to make the opening for cable installation or
 - b. the installation is by the open trench method which is only permitted prior to roadway construction.
 - (iii) Cable shall be grounded in accordance with the National Electrical Safety Code.
 - (iv) **Burial of Drops.** All temporary service drops placed between **November 1** of the prior year and **March 15** of the current year, also known as snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within **ten (10) business days** after placement.
- (2) **Underground Facilities Other Than Electric Power or Communication Lines.** Underground facilities other than electric power or communication lines may be installed by:
- (a) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
 - (b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - (c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - (d) tunneling with vented encasement, but only if installation is not possible by other means.
- (3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT's "Standard Specifications for Road and Bridge Construction", and all other applicable laws, rules, and regulations.
- (4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- (5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the

recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois".

- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Superintendent, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

(C)

Materials.

- (1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standard Specifications for Road and Bridge Construction", the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
- (2) **Material Storage on Right-of-Way.** No material shall be stored on the right-of-way without the prior written approval of the Superintendent. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.
- (3) **Hazardous Materials.** The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D)

Operational Restrictions.

- (1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
- (2) These restrictions may be waived by the Superintendent when emergency work is required to restore vital utility services.
- (3) Unless otherwise permitted by the City, the hours of construction are from **6:00 A.M.** to **6:00 P.M.**

(E)

Location of Existing Facilities. Any utility proposing to construct facilities in the City shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

33-4-17

VEGETATION CONTROL.

(A)

Electric Utilities - Compliance with State Laws and Regulations. An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in

accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

(B) **Other Utilities - Tree Trimming Permit Required.** Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing the same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

(1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

(2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(C) **Specimen Trees or Trees of Special Significance.** The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

(D) **Chemical Use.**

(1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the City for any purpose, including the control of growth, insects or disease.

(2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Superintendent that such spraying is the only practicable method of vegetation control.

33-4-18 REMOVAL, RELOCATION, OR MODIFICATION OF UTILITY FACILITIES.

(A) **Notice.** Within **ninety (90) days** following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

(B) **Removal of Unauthorized Facilities.** Within **thirty (30) days** following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
- (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(C) **Emergency Removal or Relocation of Facilities.** The City retains the right and privilege to cut or move any facilities located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(D) **Abandonment of Facilities.** Upon abandonment of a facility within the rights-of-way of the City, the utility shall notify the City within **ninety (90) days**. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the Superintendent determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

33-4-19 CLEANUP AND RESTORATION. The utility shall remove all excess material and restore all turf and terrain and other property within **ten (10) days** after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Superintendent. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Superintendent for good cause shown.

33-4-20 MAINTENANCE AND EMERGENCY MAINTENANCE.

(A) **General.** Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

(B) **Emergency Maintenance Procedures.** Emergencies may justify noncompliance with normal procedures for securing a permit:

- (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flags. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- (2) In an emergency, the utility shall, as soon as possible, notify the Superintendent or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City police shall be notified immediately.
- (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(C) **Emergency Repairs.** The utility must file in writing with the City a description of the repairs undertaken in the right-of-way within **forty-eight (48) hours** after an emergency repair.

33-4-21 **VARIANCES.**

(A) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Superintendent of Public Works as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

(B) **Authority to Grant Variances.** The Superintendent shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

(C) **Conditions for Granting of Variance.** The Superintendent may authorize a variance only if the utility requesting the variance has demonstrated that:

- (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(D) **Additional Conditions for Granting of a Variance.** As a condition for authorizing a variance, the Superintendent may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

(E) **Right to Appeal.** Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Superintendent under the provisions of this Article shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Council's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The City Council shall timely decide the appeal.

33-4-22 **PENALTIES.** Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it. **(See Section 1-1-20 for additional penalties.)**

33-4-23 **ENFORCEMENT.** Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article.

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** 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. No one shall build a sidewalk unless it consist of new construction. No one shall remove or destroy a sidewalk without replacing the same with a new sidewalk.

(B) **Permit.** It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the City or along any of the streets, alleys, or public highways thereon, without first filing an application for a permit with the City Clerk and approved by the City Council.

(C) **Cost to Owner.** If the funds are available and the City Council approves the request, the property owner shall pay the cost of the materials and the City will be responsible for the labor.

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

(E) City may budget up to **Twenty Thousand Dollars (\$20,000.00)** of M.F.T. funds for sidewalk replacement. Residents and/or businesses desiring sidewalk replacement shall apply to the City Clerk. Priority for such sidewalk replacement shall be on a "first come first serve basis". If accepted into the City's Sidewalk Replacement Program, the City will pay for removal of the old sidewalk and replacement of the new, subject to the condition that the resident and/or business would pay all material costs necessitated by the sidewalk replacement. **(Ord. No. 15-01; 02-17-15)**

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. All installations shall conform to the requirements of **Sec. 5/11-80-11 of Chapter 65 of the Illinois Compiled Statutes** and the **Environmental Barriers Act**.

(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, including engineering fees, and thereafter, the curbs and gutters shall be maintained 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. **(65 ILCS 5/11-80-11)**

33-5-3 STORM SEWERS.

(A) **Description of Storm Water Sewers.** Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders, or storm waters, rain waters, or other waters other than sanitary sewage.

(B) **Supervision.** The Superintendent of the Water and Sewer Departments shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.

(C) **Permits.** Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Superintendent or his designated representative.

(D) **Requirements: Use of Storm Water Sewers.** Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the City. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system. **(See Chapter 34 – Subdivision Code)**

(65 ILCS 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

33-6-2 **PERMIT FOR CULVERT.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the City Clerk.

33-6-3 **APPLICATION FOR PERMIT.** Any person desiring a permit to install or replace any culvert shall file an application therefor with the City Clerk upon a form to be provided for that purpose. The application and the permit issued pursuant thereto shall be on the same form which shall be substantially as outlined in **Appendix 'B'** attached hereto.

33-6-4 **TERMINATION OF PERMIT.** All such permits shall terminate upon the expiration of **one (1) year** following the date of issue.

33-6-5 **TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe (**Class IV**), or of such other material as determined by the Street Department, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Street Superintendent. The person desiring the culvert shall purchase a culvert as provided herein and shall have it delivered on the site. The City shall install the culvert.

33-6-6 **COST OF INSTALLATION.** All culverts shall be installed in accordance with the requirements of the City and its Street Department. The property owners shall pay for the first driveway culvert. The City will replace existing culverts up to **twenty (20) feet** and any footage beyond **twenty (20) feet** of the existing culvert shall be paid for by the property owner at existing market rates for such pipe and rock. A property owner, at the property owner sole expense, may use concrete or hot mix on the surface of the driveway over the culvert to the City so long as such concrete or hot mix does not damage or interfere with the City's use or maintenance of the street. Should the City need to thereafter replace that culvert after it has been covered over by concrete or hot mix, it shall be the property owner's expense to replace the concrete or hot mix.

All digging on any City property or City right-of-way shall require a permit which may be obtained from the City Clerk's office by depositing the sum of **One Hundred Dollars (\$100.00)** which is subject to being refunded to the property owner upon inspection and approval by the City of the digging. (**Ord. No. 06-04; 05-02-06**)

(65 ILCS 5/11-80-7)

ARTICLE VII - DRIVEWAYS

33-7-1 **PERMITS REQUIRED.** No person shall construct a driveway for vehicles or animals across any sidewalk in the City without having first obtained a 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 shall be constructed in compliance with the specifications required by the Street Superintendent.

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 crosses the sidewalk and free from obstruction and openings.

(65 ILCS 5/11-80-2)

ARTICLE VIII - SNOW REMOVAL

33-8-1 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article.

"BUSINESS DAY" is any day not a Sunday or a National Holiday.

"BUSINESS DISTRICT" shall include all those areas zoned for business, commercial and industrial purposes in the Zoning Code and accompanying map as amended or other applicable regulations. **(See Schedule "L" in Chapter 24)**

"BUSINESS HOURS" are the hours between **8:00 A.M.** and **5:00 P.M.** on any business day.

"ROADWAY" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

"SIDEWALK" means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

"STREET" OR "HIGHWAY" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

33-8-2 **SNOW AND ICE TO BE REMOVED FROM SIDEWALKS BY PRIVATE PERSONS.**

(A) Every person in charge or control of any building or lot of land within the City fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away, or cause to be removed and cleared away, snow and ice from a path from so much of a sidewalk as is in front or abuts on said building or lot of land. Snow and ice shall be so removed from sidewalks in all business districts within the City by **twenty-four (24) hours** after cessation of any fall of snow, sleet or freezing rain. The path required to be cleared in the business district shall be **six (6) feet** in width, or the whole width of the sidewalk, whichever is smaller.

(B) However, in the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in subsection (A) 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 on said sidewalk of at least **six (6) feet** in width to be thoroughly cleaned.

33-8-3 **DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

ARTICLE IX - MOVING BUILDINGS

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

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

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

33-9-3 **INVESTIGATION.** Upon the filing of the application, the Street Superintendent shall cause the Zoning Administrator, or other authorized representative of the City, to investigate the building and report to him the results of such investigation, together with recommended action thereon.

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

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

Provided, however, that if the condition of the building or structure, in the judgment of the Street Superintendent, admits of practicable and effective repair, the permit may be issued upon the terms and conditions as set forth herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Securely close and seal any sanitary piping located on the property.

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

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

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

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

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

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

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

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

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

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

33-9-15 **DEFAULT IN PERFORMANCE OF CONDITIONS.** Whenever a default has occurred in the performance of any term or condition of any permit, written notice thereof shall be given to the permittee by the Street Superintendent; said notice to state the work to be done, the estimated cost thereof, and the period of time deemed to be reasonably necessary to complete such work. After receipt of such notice, the permittee must, within the time therein specified, either cause the work to be done, or pay over to the City Clerk the estimated cost of doing the work, as set forth in the notice, plus **ten percent (10%)** of said estimated cost. Upon receipt of notice from the City Clerk that the

permittee has deposited such money, the Street Superintendent shall cause the required work to be performed and completed.

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF NEWTON

EXCAVATION PERMIT

NAME _____

FIRM NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

LOCATION OF PROPOSED EXCAVATION _____

NATURE OF EXCAVATION _____

BONDING COMPANY:

NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

AMOUNT OF BOND \$ _____

PREVIOUS EXPERIENCE (LIST CITIES AND/OR VILLAGES)

	<u>CITY/VILLAGE</u>	<u>CITY/VILLAGE OFFICIAL</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

I have read the municipal law with regard to excavations and my firm or company intends to fully comply with the Street Regulations Code provisions.

(Applicant's Signature)

CITY OF NEWTON

APPLICATION FOR CULVERT/DRIVEWAY PERMIT

I, _____, do hereby request permission and authority to construct a culvert/driveway on the right-of-way of the City in accordance with the information provided on this application and the accompanying sketch. (Applicant must prepare a sketch showing location, length and pertinent details.)

ADDRESS: _____

Pipe material will be: _____

Wall thickness or gauge will be: _____

Type of joint will be: _____

DATED: _____, 20__ SIGNED: _____
(APPLICANT)

CULVERT/DRIVEWAY PERMIT

APPLICATION

Approved ()

Disapproved ()

If disapproved, state reasons:

DATED: _____, 20__ SIGNED: _____

CERTIFICATION

The undersigned has inspected the construction and installation set forth above and finds that the same (is) (is not) in accordance with the permit.

DATED: _____, 20__ SIGNED: _____

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CHAPTER 34

SUBDIVISION CODE

ARTICLE I - GENERAL PROVISIONS

34-1-1 **TITLE.** These regulations shall be known as and may be referred to as the Subdivision Code.

34-1-2 **PURPOSE.** In accordance with State law (**Ill. Comp. Stats., Chap. 65, Secs. 5/11-12-5, 5/11-12-8 -- 5/11-12-12; Chap. 765, Sec. 205/1 et seq.**) this Code regulates the subdivision and development of land in order to implement the Comprehensive Plan and Official Map duly adopted by the City. Thus this Code assists in achieving the following specific objectives:

- (A) to preserve, protect, and promote the public health, safety, and welfare;
- (B) to provide a pleasant living environment by furthering the orderly and efficient layout and use of land and by facilitating aesthetic urban design;
- (C) to establish accurate legal records, to avoid development in wetland areas, and to avoid legal and other problems by requiring that subdivided land be properly monumented and recorded;
- (D) to conserve and increase the value of land, improvements, and buildings throughout the City;
- (E) to preserve the natural beauty and topography of the City to the maximum feasible extent, including preservation of such features as stands of trees, streams, significant archaeological sites, and historical landmarks;
- (F) to provide adequate light, air, and privacy for all residents of new developments by preventing undue concentration of population;
- (G) to protect against injury or damage caused by fire, pollution, flooding, storm water runoff, or erosion and sedimentation;
- (H) to provide safe and convenient access to new developments and to avoid traffic congestion and unnecessary public expenditures by requiring the proper location, design, and construction of streets and sidewalks;
- (I) to provide an environment whereby the cost of installing and maintaining adequate water mains, sanitary sewers, storm water sewers, and other utilities and services can be kept at a minimum; and
- (J) to ensure that adequate parks, schools, and similar facilities can be made available to serve the residents.

34-1-3 **JURISDICTION.** The provisions of this Code shall apply to all Planned Developments whether Residential, Commercial, or otherwise in nature, and to any other developments whether a Plat is required or not under the law, statutes, ordinances or regulations of the governmental body or agency having jurisdiction or control, and regardless of whether the same is labeled a subdivision or not, it being the intent of this Code to apply to all types of development, both within the City and to areas lying within **one and one-half (1.5) miles** of the corporate limits of the City.

34-1-4 **INSTANCES WHEN PLATS WILL NOT BE REQUIRED.** The provision of these regulations do not apply and no plat is required in any of the following instances:

- (A) the division or subdivision of land into parcels or tracts of **five (5) acres** or more in size which does not involve any new streets or easements of access or special utility easements;
- (B) the division of lots or blocks of less than **one (1) acre** in any recorded subdivision which does not involve any new streets or easements of access or special utility easements;

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(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 pipelines which does not involve any new streets or easements of access or special utility easements;

(E) the conveyance of land for highway or other public purposes or grants or conveyance relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

(F) conveyance made to correct description in prior conveyances;

(G) the sale or exchange of parcels or tracts of land following the division into no more than **two (2) parts** of a particular parcel or tract of land recorded on or before **July 17, 1959** and not involving any new streets or easements of access or add special utility easements;

(H) the conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access or special utility easements;

(I) the sale of a single lot of less than **five (5) acres** from a larger tract when a survey is made by a registered surveyor; provided, however, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract existing as of **October 1, 1973**.

The City retains the right to review and approve the infrastructure improvements including, but not limited to stormwater and erosion control regulations.

34-1-5 **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of the City, and every regulation set forth herein shall be considered the minimum requirement for the promotion of the public health, safety, and welfare.

(A) **More Restrictive Requirements Apply.** Whenever the requirements of this Code differ from those of any statute, lawfully adopted ordinance or regulation, easement, covenant, or deed restriction, the more stringent requirement shall prevail. Thus, in accordance with State law whenever this Code imposes higher standards than the County Subdivision Code, said higher standards shall supersede the County regulations in the unincorporated territory located within the City's subdivision jurisdiction. **(See 65 ILCS Sec. 5/11-12-11)**

34-1-6 **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or ordinance, no officer, council member, agent, or employee of the City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code. **(See "Local Governmental and Governmental Employees Tort Immunity Act," III. Comp. Stats., Chap. 745, Secs. 10/1-101.)**

(B) Any suit brought against any officer, council member, agent, or employee of the City, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the City Attorney until the final determination of the legal proceedings.

34-1-7 **REVIEW AND EXPIRATION.** This Code shall be reviewed by the Plan Commission and the Council every **ten (10) years** for necessary amendments. In lieu of no Plan Commission being appointed, the Mayor may appoint a special Planning Committee which shall serve as the Plan Commission provided herein.

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ARTICLE II - DEFINITIONS

34-2-1 **INTERPRETATION OF TERMS.** In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Unless the context clearly indicates otherwise, words and phrases shall have the meanings respectively ascribed to them in **Section 34-2-2**; terms not defined in **Section 34-2-2** shall have the meanings respectively ascribed to them in the City's Zoning Code; if any term is not defined either in **Section 34-2-2** or in the Zoning Code, said term shall have its standard English dictionary meaning.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and vice versa.

(E) The word "shall" is mandatory; the word "may" is discretionary.

(F) Captions (i.e., titles of sections, subsections, etc.) are intended merely to facilitate general reference and in no way limit the substantive application of the provisions set forth thereunder.

(G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

(I) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot**.

34-2-2 **SELECTED DEFINITIONS.**

Administrator: The official appointed by the Mayor and the City Council to administer the Subdivision Code.

Alley: A public right-of-way which affords a secondary means of vehicular access to the side or rear of premises that front on a nearby street, and which may be used for utility purposes.

Amendment: A change in the provisions of this code, properly effected in accordance with State law and the procedures set forth herein.

Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of unenclosed patios, terraces, and steps.

Area, Gross: The entire area within the lot lines of the property proposed for subdivision/development, including any areas to be dedicated/reserved for street and alley rights-of-way and for public uses.

Area, Net: The entire area within the boundary lines of the territory proposed for subdivision, less the area to be dedicated for street and alley rights-of-way and public use.

Arterial Street: A street designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route with intersections at grade, and on which traffic control devices are used to expedite the safe movement of through traffic.

Barrier (Natural or Artificial): Any street, highway, river, pond, canal, railroad, levee, embankment, or screening by a fence or hedge.

Block: An area of land entirely bounded by streets, highways, barriers, or rights-of-ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or

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R.O.W.) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

Building: Any structure, whether temporary, semi-permanent, or permanent, designed or intended for the support, enclosure, shelter or protection of persons or property.

Building Line: See Setback Line.

Catch Basin: A receptacle, located where a street gutter opens into a storm sewer, designed to retain matter that would not easily pass through the storm sewer.

Centerline:

- (A) the centerline of any right-of-way having a uniform width;
- (B) the original centerline, where a right-of-way has been widened irregularly;
- (C) the new centerline, whenever a road has been relocated.

Centerline Offset: The distance between the centerline of two roughly parallel streets, measured along the third street with which both said "parallel" streets intersect.

Cluster Development: A subdivision planned and constructed so as to group housing units into relatively dense patterns while providing a unified network of open space and wooded areas, and meeting the requirements of the Subdivision Code and the Zoning Code.

Collector Street: A street which carries or is proposed to carry intermediate volumes of traffic from local streets to arterial streets and which may or may not be continuous. Collector streets are those streets which carry or are expected to carry traffic intensities as generated by serving more than **one hundred fifty (150) dwelling units**.

Common Land: That land set aside for open space or recreational use for the owners of the lots of a subdivision, which land is conveyed by the developer in fee simple absolute title by warranty to trustees whose trust indenture shall provide that said common land be used for the sole benefit, use and enjoyment of the lot owners present and future. No lot owner shall have the right to convey his interest in the common land except as an incident of the ownership of a regularly platted lot.

Comprehensive Plan: The plan or any portion thereof adopted by the City Council to guide and coordinate the physical and economic development of the City, if any. The City's Comprehensive Plan may include, but is not limited to, plans and programs regarding the location, character, and extent of highways, bridges, public buildings or uses, utilities, schools, residential, commercial, or industrial land uses, parks, drainage facilities, etc.

Cross-slope: The degree of inclination measured across a right-of-way rather than in the direction traffic moves on said right-of-way.

Cul-de-Sac: A short minor local street having only one outlet for vehicular traffic and having the other end permanently terminated by a turn-around for vehicles; the term may also be used to refer solely to said turn-around.

Curb and Gutter, Integral: The rim forming the edge of a street plus the channel for leading off surface water, constructed of concrete as a single facility.

Dedicate: To transfer the ownership of a right-of-way, parcel of land, or improvement to the City or other appropriate government entity without compensation.

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Density, Gross: The total number of dwelling units divided by the total project area, expressed as gross dwelling units per acre.

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Density, Net: The total number of dwelling units divided by the net acreage. See definition of Area, Net.

Design: The arrangement of uses on the land and the arrangement of easements, lots and rights-of-way, including specifications of materials, alignment, grade and width of these elements.

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

Dimensions: Refers to both lot depth and lot width.

District, Zoning: A portion of the territory of the City wherein certain uniform requirements or various combinations thereof apply to structures, lots, and uses under the terms of the City's Zoning Code, if any.

Drainageway: A watercourse, gully, dry stream, creek, or ditch which carries storm water runoff or which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such watercourse, gully, dry stream, creek, or ditch.

Easement: A grant by the property owner to the public, a corporation, or a person of the use of land for limited and specifically named purpose.

Escrow Deposit: A deposit in cash or other approved securities to assure the completion of improvements within a subdivision.

Filing Date: The date that the applicant has filed the last item of required data or information with the City Clerk and has paid the necessary fees for review by the Plan Commission.

Flood Hazard Area: All land subject to periodic inundation from overflow of natural waterways.

Frontage: The lineal extent of the front (street-side) of a lot.

Frontage Road: A minor street fronting on an arterial street or highway (usually a limited access highway), used for access to abutting lots.

Grade: The degree of inclination of the site or right-of-way, expressed as a percentage. Synonym for "slope."

Hillside Area: An area with an average slope of **twenty percent (20%)** or more.

Improvement: Refers to site grading, street work and utilities (including water, sewer, electric, gas, storm water, telephone and cable television) to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, and easements or other purposes as are necessary for the general use of lot owners in the subdivision. Including the furnishing of all materials, equipment, work and services such as engineering, staking and supervision, necessary to construct all the improvements required in Article V of the Code or any other improvements that may be provided by the subdivider. All of such materials, equipment and services shall be provided at the subdivider's cost and expense, although he may enter into a contract with individuals and firms to complete such improvements, and the improvements shall be subject to the final approval of the Plan Commission and the City Council.

Improvement Plans: The engineering plans showing types of materials and construction details for earth moving and for the structures and facilities to be installed both in, or in conjunction with, a subdivision. Plans shall include drainage, streets, alleys and utility locations to be installed in or in conjunction with a subdivision - also, include overall drainage plan and its effect on contiguous land and source of effluent or discharge.

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Inlet: A receptacle, located where surface and/or groundwater can run to by gravity to be received by the storm sewer.

Intersection: The point at which two or more public rights-of-way (generally streets) meet.

Land Use Plan: The comprehensive long-range plan for the desirable use of land, the purpose of such plan being, among other things, to serve as a guide to the zoning and progressive subdividing and use of undeveloped land.

Local Street: A street serving limited amounts of residential traffic and:

- (A) is used primarily for access to abutting properties and marginal streets;
- (B) has more than one outlet;
- (C) is not typically a through route; and
- (D) serves less than **one hundred fifty (150) dwelling units**.

Lot: A tract of land intended as a unit for the purpose (whether immediate or future) of development or transfer of ownership. A "lot" may or may not coincide with a "lot of record."

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lines of a lot, exclusive of any land designated for street right-of-way.

Lot, Butt: A lot at the end of a block and located between **two (2) corner lots**.

Lot, Corner: A lot having at least **two (2) adjacent sides** that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

Lot Depth: The mean horizontal distance between the front end and the rear lot lines measured in the general direction of the side lot lines.

Lot, Interior: A lot whose side lines do not abut any street.

Lot Line, Front: The line separating the lot from the street. On a corner lot, the front lot line shall be the frontage having the least dimension.

Lot Line, Rear: The rear lot line is the lot line most nearly parallel to and most remote from the front lot line.

Lot Line, Side: Any lot line other than front or rear lot line. A corner side lot line separating a lot from a street is called a street side lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

Lot of Record: An area of land designated as a lot on a plat of subdivision recorded with the County Recorder of Deeds in accordance with State law.

Lot, Through: A lot having a part of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

Lot Width: The mean horizontal width of the lot measured at right angle to the general direction of the side lot lines.

Maintenance Bond: A surety bond, posted by the developer and approved by the City, guaranteeing the satisfactory condition of installed improvements for the two-year period following their dedication.

Marginal Street: A street serving minimal amounts of residential traffic at low speeds and:

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(A) is used for access to abutting properties;

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- (B) is a permanently dead end street;
- (C) terminates in a cul-de-sac of the required dimensions; and
- (D) serves no more than **twenty-five (25) dwelling units**.

Master Development Plan: A combination of maps, drawings, site plans, charts and supportive narrative material that portrays total development to be achieved in the overall project area; which provides sufficient detailed information to both illustrate and describe the intended character and configuration of development to be accomplished.

Metes and Bounds: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and description of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

Official Map: A graphic statement of the existing and proposed capital improvements planned by the City which require the acquisition of land--such as streets, drainage systems, parks, etc.

Owner: A person having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Parking Lane: An auxiliary lane of a street and primarily used for vehicular parking.

Pedestrian Way: A right-of-way dedicated to public use which cuts across a block to facilitate safe pedestrian access to adjacent streets and properties.

Performance Bond: A surety bond posted by the developer and approved by the City, guaranteeing the installation of required improvements within, or in conjunction with, a subdivision.

Plan Commission: The Plan Commission of the City.

Planned Unit Development (PUD): A planned unit development is a comprehensively planned development containing residential, commercial, industrial, or other land uses on an area of land under continuing unified control. A planned unit development may contain a single type of land use or combination of land uses provided that such development is reviewed, evaluated and approved by the City and satisfies the requirements contained herein.

Plans: All of the drawings including plats, cross-sections, profiles, working details and specifications, which the subdivider prepares or has prepared to show the character, extent and details of improvements required in this Code and which plans shall conform to any requirements of the Plan Commission as to scale and details for submittal to the approval officials of the City for consideration, approval or disapproval.

Plat, Final: The final engineering and architectural maps, drawings, and supporting material indicating the subdivider's plan of the subdivision which, if approved, may be filed with the County Recorder of Deeds.

Plat, Preliminary: Preliminary engineering and architectural maps, drawings, and supportive material indicating the proposed layout of a subdivision.

Project Area: That territory intended to be subdivided or developed, and portrayed and defined in the preliminary and final plats.

Reserve: To set aside a parcel of land in anticipation of its acquisition by the City or other appropriate government entity for public purposes.

SUBDIVISION CODE 34-2-2

Reserve Strip: A narrow strip of land between a public street and adjacent lots which is designated on a recorded subdivision plat or property deed as land over which vehicular travel is not permitted.

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Re-subdivision: See Subdivision.

Retention Area: An area of land designed to capture water runoff from a developed parcel and release it at a specified rate of flow as determined by engineering studies.

Reverse Curve: A curve in a street heading in approximately the opposite direction from the curve immediately preceding it so as to form an S-shape.

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated to the City or other appropriate government entity for streets, alleys, and other public improvements; sometimes abbreviated as r.o.w.

Roadbed: The graded portion of a street upon which the base course, surface course, shoulders and median are constructed.

Roadway: The entire improved portion of the street, including shoulders, parking lanes, travel way, curbs and gutter.

Setback Line: A line that is usually parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

Sewerage System, Private: A sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

Sidewalk: A pedestrian way constructed in compliance with the standards of this Code, generally abutting or near the curb line of the street.

Slope: The degree of inclination of site or right-of-way expressed as a percentage. Synonym for "grade."

Soil and Water Conservation District: The Clinton County Soil and Water Conservation District also known as the U.S. Natural Resource and Conservation Service.

Stop Order: An order used by the Administrator to halt work-in-progress that is in violation of this Code.

Street: A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court and similar designations, but excludes an alley or a way for pedestrian or bicycle use only.

Street, Area Service Highway: Area service highways interconnect collectors and land access streets with the principal system and vice versa, brings all developed areas within a reasonable distance of principal streets, connects and provides direct access to major traffic generators, provides secondary service to smaller communities, may provide access to abutting property, and have a medium volume design capacity and travel speeds.

Street, Cul-de-Sac: A short, land-access street, having only **one (1) end** open for vehicular traffic, and the other permanently terminated by a turn-around for vehicles.

Street, Dead-End: Land access streets similar to cul-de-sacs, except that they provide no turn-around circle at their closed end, and are permitted in any proposed subdivision with the permission of the City. **(See Section 34-5-12(B))**

Street, Land Access: Land access streets provide access to abutting properties, have a relatively short travel distance, and have a low volume design capacity and travel speeds.

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Street, Looped: Land access streets having **two (2) open ends**, each end generally connecting with the same street, no other streets intersecting between its ends, and property fronts on both sides of the street.

Street, Marginal Access or Service Road: A land access street parallel and adjacent to area service highways providing access to abutting properties.

Structure: Anything constructed or erected which requires permanent or temporary location on or in the ground, or is attached to something having a fixed location on or in the ground. All buildings are structures but not all structures are buildings (e.g., a fence).

Stub or Butt Street: A street that is temporarily terminated, but that is planned for future continuation.

Subdivider: Any person, firm, partnership, association, corporation, estate or other group or combination acting as a unit, dividing or proposing to divide land in a manner that constitutes a subdivision as defined in this Article.

Subdivision: (1) The division of land into two or more lots or parcels for the purpose of either immediate or future sale, rental or building development or use(s) other than agricultural use or production. (2) Establishment or dedication of a public street or alley through a tract of land regardless of size. The term "subdivision" shall also include all re-subdivisions of land or lots.

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 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.

Travelway: That portion of a street used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Vacate: To terminate the legal existence of right-of-way or subdivision, and to so note on the final plat recorded with the County Recorder of Deeds.

Variance, Subdivision: A relaxation in the strict application of the design and improvement standards set forth in this Code.

Yard, Front: A yard extending across the full width of the lot, between the nearest front main building and the front lot lines. The depth of the required front yard shall be measured horizontally from the nearest part of the main building toward the nearest point of the front lot lines.

Yard, Rear: A yard extending across the full width of the lot between the nearest rear main building and the rear lot lines. The depth of the required rear yard shall be measured horizontally from the nearest part of the main building toward the nearest point of the rear lot lines.

Yard, Side: A yard between a main building and the side lot line, extending from the front yard or front lot lines, where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

Zoning Code: The Zoning Code of the City.

SUBDIVISION CODE 34-3-1

ARTICLE III - PLATS AND PLANS

DIVISION I - PRELIMINARY PLATS

34-3-1 GENERAL PROCEDURE. Before preparing a proposed plat for an area, the owner, developer, or their representatives should have a pre-application meeting with the Plan Commission and/or the City Planner to determine applicable ordinance regulations and standards which must be complied with. After the pre-application meeting(s), the subdivider should then prepare the preliminary plat. As defined in the Subdivision Code, the preliminary plat must contain a substantial amount of data, and will thus be incomplete and cannot be considered as filed until all required data are submitted. The preliminary plat is received with filing fees by the City Clerk's office, who, in turn, will forward the same to the Plan Commission for their review. Following its review (as well as comments from other appropriate agencies when required), the Plan Commission forwards its recommendation(s) to the City Council, who then either approve, disapprove, or approve with modifications the preliminary plat.

34-3-2 FILING PROCEDURE. Except as specifically provided otherwise below, every person who proposes to subdivide any land located within the subdivision jurisdiction of this municipality shall file **six (6) copies** of the preliminary plat of said subdivision with the City Clerk.

He shall also file **one (1) copy** of the preliminary plat and supporting data with the appropriate Soil and Water Conservation District. Said district shall have not more than **thirty (30) days** to submit any comments it might wish to make to the Council. **(See 70 ILCS Sec. 405/22.02A)**

Whenever a large tract is to be developed in stages and only a portion of that tract is to be submitted for final plat approval, nonetheless, a Master Development Plan of the entire tract shall be submitted.

All preliminary plats shall be reviewed and acted upon in accordance with **Illinois Compiled Statutes, Chapter 65, Section 5/11-12-8** and the provisions of the subsections below.

EXCEPTION: The provision of this section shall not apply to:

- (A) minor subdivisions as defined at **Section 34-2-2**; or
- (B) land that is specifically exempted from the Illinois Plats Act as now or hereafter amended. **(See 765 ILCS Sec. 205/1(B)).**

34-3-3 INFORMATION REQUIRED. Every preliminary plat shall be prepared by an Illinois Professional Land Surveyor at any scale from **one inch equals twenty feet (1" = 20')** through **one inch equals one hundred feet (1" = 100')** provided the resultant drawing does not exceed **thirty-six (36) inches square**. Applicant shall provide 11" x 17" reduced size copies for City Council review. Each preliminary plat shall indicate on its face the following information:

- (A) small key map showing the relation of the proposed subdivision to section or U.S. Survey lines and to platted subdivisions and dedicated roads within **three hundred (300) feet** of the proposed subdivision;
- (B) names and addresses of the owner, subdivider (if not the owner), and registered professional engineer;
- (C) proposed name of the subdivision;
- (D) zoning district classification of the tract to be subdivided, and of the adjacent land;
- (E) north arrow, graphic scale, and date of map;
- (F) the gross and net acreage area of the proposed subdivision, the acreage of streets, and of any areas reserved for the common use of the property owners within the subdivision and/or for public use;
- (G) all lot lines adjacent to and abutting the subdivision;
- (H) tract boundary lines showing dimensions, bearings, angles, and references to known land lines;

SUBDIVISION CODE 34-3-4

(I) topography of the tract to be subdivided as indicated by **two- (2) foot** contour data for land having slopes of **zero-four percent (0-4%)**, **five- (5) foot** contour data for land having slopes between **four-twelve percent (4-12%)**, and **ten- (10) foot** contour data for land having slopes of **twelve percent (12%)** or more;

(J) any proposed alteration, adjustment or change in the elevation or topography of any area;

(K) locations of such features as bodies of water, ponding areas, natural drainageways, railroads, cemeteries, bridges, parks, schools, etc.;

(L) streets and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street right-of-way and paving widths; approximate gradients; types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all existing or proposed streets as to function as collector, major, minor or county road;

(M) a copy of the results of any tests made to ascertain subsurface rock and soil conditions and the water table;

(N) locations, widths, and purposes of all existing and proposed easements;

(O) a copy of the description of all proposed deed restrictions and covenants;

(P) location and size of existing and proposed sanitary and storm sewers;

(Q) locations, types, and approximate sizes of all other existing and proposed utilities;

(R) building setback or front yard lines and dimensions;

(S) locations, dimensions, and areas of all parcels to be reserved or dedicated for schools, parks/playgrounds, and other public purposes; and

(T) locations, dimensions, and areas of all proposed or existing lots within the subdivision;

(U) information as defined in Section 34-3-4(A);

(V) delineated boundaries of any wetland;

(W) delineated boundaries of any Federal Emergency Management Agency identified floodplain, floodway or flood prone areas.

[See Schedule "A" at conclusion of Chapter.]

34-3-4 PLAN COMMISSION ACTION. The Plan Commission shall either approve or disapprove the application for preliminary plat approval within **ninety (90) days** from the date of said application or the filing of the last item of required supporting data, whichever date is later, unless the Plan Commission and the subdivider mutually agree to extend this time limit. If the Plan Commission disapproves the preliminary plat, they shall furnish to the applicant within the **sixty (60) day period** a written statement specifying the aspects in which the proposed plat fails to conform to this Code and/or the Official Map. If the Plan Commission approves the preliminary plat, they shall inform the City Council that action can be taken at the next regularly scheduled City Council meeting.

(A) **Notice of Meeting.** The Plan Commission shall give notice of its consideration of any preliminary plat and allow the opportunity to be heard to the following person(s) or groups during its preliminary review time span:

- (1) Any person requesting notification of the meeting.
- (2) Any property owner whose property is contiguous to the property, including property across the streets, railroads, creeks, and similar barriers; said information shall be provided by the applicant to the City Clerk's office when filing the plat.
- (3) Any governmental or taxing body which requests notification of the meeting. **(See 65 ILCS 5/11-12-8)**

34-3-5 REVIEW BY CITY COUNCIL; TIME CONSTRAINTS. The City Council shall review the preliminary plat, along with the Plan Commission recommendations and approve, disapprove or approve subject to certain conditions and/or modifications said preliminary plat within **thirty (30) days** after its next regularly scheduled meeting following receipt of the written Plan Commission recommendations,

SUBDIVISION CODE 34-3-5

unless variances from Zoning Code requirements are needed, in which case, the City

SUBDIVISION CODE 34-3-6

Council's **thirty (30) days** commence the day after the Board of Appeals hearing is held, as required by the Zoning Code, if any.

If the City Council rejects the preliminary plat, their resolution shall specify the aspects in which the plat fails to comply with this Code and/or the Official Map. The City Clerk shall attach a certified copy of the Council's resolution of approval or disapproval to the preliminary plat. One copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Administrator, and one copy shall be sent to the subdivider by return receipt mail.

34-3-6 **RIGHTS AND PRIVILEGES OF SUBDIVIDER.** Preliminary plat approval shall confer the following rights and privileges upon the subdivider:

(A) That the preliminary plat will remain in effect for a **one (1) year** period from the day the City Council approves the same. The applicant may, during this period, submit all or part or parts of said preliminary plat for final approval. In the event that the subdivision is being developed in stages, the applicant may, by written mutual agreement with the City Council, have final approval of the last part of the plat delayed for a period not to exceed **five (5) years** from the date of the preliminary plat approval. Any part of a subdivision which is being developed in stages shall contain a tract of land at least **one (1) block** in area or **five (5) gross acres**.

(B) That the general terms and conditions under which the preliminary plat approval was granted will not be changed for final approval.

(C) The applicant may also proceed with any detailed improvement plans required for all facilities or utilities intended to be provided. Actual construction of such facilities and improvements may commence prior to final plat approval if the detailed improvement plans have been recommended by the City Engineer and approved by the City Council, provided that such facilities and improvements will be inspected throughout their construction, and final plat approval will be contingent in part upon acceptable compliance to City improvement and facilities standards. If the applicant does not submit the improvement plans prior to the submission of the final plat, then he shall submit the improvement plans to the City Clerk's office at the time that the final plat is submitted.

34-3-7 **RESERVED.**

DIVISION II - IMPROVEMENT PLANS

34-3-8 **SUBMISSION OF PLANS.** After the City Council has approved the preliminary plat, but prior to submission of the final plat, the developer shall furnish **four (4) copies** of the plans and specifications for all improvements to be installed within or in conjunction with the proposed development to the City Clerk, pay all associated filing fees before review by the City Engineer. These plans and specifications shall be signed and sealed by the registered professional engineer responsible for their preparation. Until the City Engineer certifies in writing that the proposed improvements conform to generally accepted engineering practices and to the standards in this Code:

(A) the Administrator shall not issue any building permit to allow construction of said improvements; and

(B) the City Council shall not act upon the application for final plat approval. **(See Section 34-3-22)**

34-3-9 **INFORMATION REQUIRED.** Improvement plans shall consist of black or blue line prints not larger than **twenty-four (24) by thirty-six (36) inches** and at a minimum horizontal scale

SUBDIVISION CODE 34-3-9

of **one hundred (100) feet to one (1) inch** or minimum vertical scale of **five (5) feet to one (1) inch**.
These plans and the related specifications shall provide all of the following information:

SUBDIVISION CODE 34-3-10

- (A) topography of the tract, both before and after development at the same scale as the approved preliminary plat;
- (B) existing and proposed elevations along the centerline of all streets;
- (C) radii of all curves and lengths of tangents on all streets;
- (D) locations and typical cross-section of street pavements including curbs/gutters, catch basins, and inlets;
- (E) locations and typical cross-section of sidewalks and driveway aprons;
- (F) locations, sizes, and invert elevations of all existing and proposed sanitary sewers, storm sewers, and fire hydrants, showing connections to any existing or proposed utility systems;
- (G) locations and sizes of all water, gas, electric, and other utilities;
- (H) locations of street lighting standards and street signs;
- (I) one or more bench marks, when requested by Engineer, in or near the subdivision, to which the subdivision is referenced; the identity and elevation shall be based on sea level datum;
- (J) all proposed measures to control erosion and sedimentation;
- (K) high water elevations of all lakes/streams adjoining or within the tract;
- (L) such other information as the City Engineer may reasonably require to perform his duties under this section; and
- (M) existing and proposed survey monuments on street plans or on the proposed final plat as required by this Code.
- (N) stormwater detention facilities shown on plans and supporting engineering calculations for storm sewers and detention facilities.

[See Schedule "B" at conclusion of Chapter.]

34-3-10 INSPECTIONS REQUIRED. The subdivider/developer shall notify the Administrator and the City Engineer of both the start and completion of construction.

(A) The City Engineer shall inspect said improvements while they are under construction. If he or his designated deputy determines that they are being built in violation of this Code, he shall request that the Administrator promptly issue a stop order.

(B) The City Engineer shall inspect improvements upon their completion. This municipality shall not accept any completed improvement until the Engineer has stated in writing that it complies with this Code.

34-3-11 FILING "AS-BUILT" RECORDS.

(A) The subdivider/developer shall file with the Administrator a set of reproducible cloth- or polyester-base film positive showing the as-built details and any deviations from the approved plans upon the completion of improvements, or when **fifty percent (50%)** of the building permits have been issued in a given plat.

(B) The subdivider/developer shall pay the costs to add water, sewer, street, and stormwater improvements to the overall City map(s);

(C) If the Administrator finds the as-built to be unacceptable, building permits shall be discontinued until such time as the information is acceptable.

34-3-12 RESERVED.

DIVISION III - ASSURANCE FOR COMPLETION OF REQUIRED IMPROVEMENTS

SUBDIVISION CODE 34-3-13

34-3-13 **APPROVAL OF FINAL PLAT - IMPROVEMENTS.** The City Council shall not approve any final plat of subdivision (and, hence, said final plat shall not be entitled to recording) until:

SUBDIVISION CODE 34-3-14

(A) all improvements required in the improvement plan have been completed by the subdivider/developer at his expense, inspected by the Zoning Administrator and Engineer, and dedicated to this municipality or other appropriate entity; or

(B) in accordance with the sections below, the subdivider/ developer has provided this municipality with legal assurance to guarantee the satisfactory completion and dedication of all required improvements.

34-3-14 **FORMS OF ASSURANCE.** At the option of the City Council, the required legal assurance may be either a performance bond or a bank letter of credit. Every performance bond shall be reviewed by the City Attorney, and posted with the City Clerk.

34-3-15 **AMOUNT OF BOND OR DEPOSIT.** The amount of the performance bond or escrow deposit shall be equal to the City Engineer's opinion of probable costs of constructing the uncompleted portion of the required improvements plus all required inspection fees. Developer's engineer shall prepare cost estimates for review and approval by the City Engineer. Any escrow deposit may be in the form of:

(A) an irrevocable letter of credit or commitment from a lending institution guaranteeing to this municipality the availability of the escrow funds from time to time upon demand; or

(B) certificates of deposit, treasury bills, or other readily negotiable instruments approved by the City Clerk, and made payable to this Municipality.

[See Schedules "D" and "E" at the conclusion of the Chapter.]

34-3-16 **ELIGIBLE SURETIES.** No person shall be eligible to act as surety unless he has been approved by the City Council. The Treasurer shall conduct or cause to be conducted spot audits of all sureties. Any surety who fails to perform shall be ineligible for **two (2) years** thereafter to act as surety for any subdivision improvement within this City's jurisdiction.

34-3-17 **TERM OF ASSURANCE, EXTENSION.** The initial term of any performance bond or bank letter of credit shall not exceed **two (2) years**. If all the required improvements have not been completed by the end of the two-year period, the Mayor or Administrator, with the advice and consent of the City Council, may either extend said bond/bank letter of credit for **one (1) year** only, or may proceed as per **Section 34-3-19**.

34-3-18 **RELEASE OF BOND/ESCROW DEPOSIT.**

(A) The City Treasurer may release up to **ninety percent (90%)** of the amount of the performance bond/escrow deposit upon receipt of written authorization from the City Engineer. The amount which the City Engineer authorizes to be released shall be equal to the value of improvements actually completed in accordance with approved plans.

(B) The balance of the amount of the performance bond/escrow deposit shall not be released by the City Council until:

- (1) the City Engineer has certified to the Council in writing that all required improvements have been satisfactorily completed; and
- (2) said improvements have been accepted by and dedicated to this City or other appropriate entity.

34-3-19 **FAILURE TO COMPLETE IMPROVEMENTS.** If all the required improvements have not been completed by the end of the two-year period (or three-year period, in the case of an extension), the Administrator, with the assistance of the City Attorney, may:

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(A) require the surety to perform on the bond, and to pay to this municipality an equal amount to the cost of completing the required improvements or the amount of the bond not theretofore released, whichever is less; or

(B) order the City Clerk to retain all escrow funds needed to complete the required improvements, and to return the balance (if any) of such funds to the subdivider/developer; or

(C) require the subdivider/developer to submit a new performance bond or bank letter of credit in an amount sufficient to cover any increase in the cost of constructing the required improvements. An extension may be granted only for a **one (1) year** period by the City Council.

34-3-20 - 34-3-21 RESERVED.

DIVISION IV - FINAL PLATS

34-3-22 CITY COUNCIL APPROVAL. The City Council shall not approve any final plat unless they determine that it is in compliance with all pertinent requirements of this Code including those set forth in the sections below.

34-3-23 FILING, TIME LIMITS. The subdivider of every subdivision -- whether major or minor but excluding land specifically exempted from the Illinois Plats Act as now or hereafter amended (**III. Comp. Stats., Chap. 765, Sec. 205/1(b)**) -- who desires final plat approval shall file **six (6) copies** of the final plat and supporting data with the City Clerk and pay all associated filing fees not later than **one (1) year** after preliminary plat approval has been granted. However, with the consent of the City Council, the subdivider may delay application for final approval of part(s) of the tract shown on the preliminary plat for successive one-year periods. No subdivision plat or re-plat shall be filed for record or recorded in the office of the County Recorder of Deeds, unless and until the approval of the City is endorsed thereon. No lot shall be sold for such subdivision plat or re-plat until it has been approved by the City Council and filed for record in the office of the County Recorder of Deeds as required by the State Statutes.

For official filings, the subdivider shall file the approved final plat with the County Recorder of Deeds within **sixty (60) days** after the City Council has approved the same and the Mayor has affixed his signature thereto. **One (1) copy** of the final plat shall be given to the City Clerk's office by the subdivider bearing the official stamp of the County Recorder attesting its recording within **twenty (20) days** of such action.

34-3-24 INFORMATION REQUIRED. Every final plat shall be prepared by a registered Illinois land surveyor on polyester-base film with waterproof black ink at a scale not greater than **one hundred (100) feet** equals **one (1) inch**, provided that the resultant drawing shall not exceed **twenty-four (24) by thirty-six (36) inches**. The final plat and supporting data shall portray/provide all of the following information:

- (A) north arrow, graphic scale, and date;
- (B) name of subdivider, subdivision, identification of the portion of the Public Lands Survey in which the subdivision is located;
- (C) accurate metes and bounds or other adequate legal description of the tract, and the included area of the subdivision to the nearest **one-hundredth (1/100) of an acre**;
- (D) accurate boundary lines, with dimensions and bearings or angles which provide a survey of the tract, closing with an error of closure of not more than **one (1) foot in ten thousand (10,000) feet**;
- (E) all dimensions shall be shown in feet and decimals of a foot;
- (F) reference to recorded plats of adjoining platted land within **three hundred (300) feet**, by record name, plat book, and page number;

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- (G) accurate locations of all existing streets intersecting the boundaries of the subdivision;
- (H) right-of-way lines of all streets, other rights-of-way, easements, and lot lines with accurate dimensions, angles, or bearings and curve data, including radii, arcs or chords, points of tangency, and central angles;
- (I) name and right-of-way width of every proposed street;
- (J) purpose of any existing or proposed easement(s);
- (K) number of each lot, lot dimensions, and (in a separate list) lot areas;
- (L) purpose(s) for which sites, other than private lots, are reserved;
- (M) building or setback lines with accurate dimensions;
- (N) restrictions of all types which will run with the land, and become covenants in the deeds of lots;
- (O) certification of dedication of all public areas;
- (P) accurate distances and directions to the nearest established official monument; reference corners shall be accurately described on the final plat;
- (Q) reference to known and permanent monuments and bench marks from which future surveys may be made together with elevations of any bench marks; and the Surveyor must, at the time of making his survey, establish permanent monuments (set in such a manner that they will not be moved by frost) which mark the external boundaries of the tract to be divided or subdivided and must designate upon the plat the locations where they may be found;
- (R) location, type, material and size of all monuments and lot markers.

In addition, the subdivider shall furnish the City Council with a sample sales contract which reflects both restrictive covenants and local development ordinances which the property will be subject to.

[See Schedule "C" at conclusion of Chapter.]

34-3-25 CERTIFICATES REQUIRED. As required by State law (**III. Comp. Stats., Chap. 765, Sec. 205/2; Chap. 65, Sec. 5/11-12-8**), the following certificates shall be executed on the final plat:

(A)

OWNER'S CERTIFICATE

We, _____, the Owners of _____ (description) _____, have caused the said tract to be surveyed and subdivided in the manner shown, and said subdivision is to be hereinafter known as _____. All rights-of-way and easements shown hereon are hereby dedicated to the use of the public forever including the release and waiver of the right of homestead under the Homestead Exemption laws of the State of Illinois.

Dated this ___ day of _____, 20__.

_____ (Seal)

_____ (Seal)

(B)

NOTARY PUBLIC'S CERTIFICATE

State of Illinois)
) SS
County of Jasper)

I, _____, a Notary Public in and for the County aforesaid, do hereby certify that _____ (owners) _____ are personally known to me to be the same persons whose names are subscribed to the foregoing

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instrument, and that they appeared before me this day in person and acknowledged that they signed and

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sealed the same as their free and voluntary act for the uses and purposes therein set forth, including the release of waiver of the right of homestead.

Given under my hand and Notarial Seal this _____ day of _____, 20__.

Notary Public

(C)

SURVEYOR'S CERTIFICATE

I, _____, an Illinois Professional Land Surveyor, do hereby certify that this plat is a correct representation of a survey made under my direct supervision at the request of _____ for the purpose of subdividing the tract into lots as shown.

Land Surveyor

Illinois Registration Number

Date

(D)

COUNTY ENGINEER'S CERTIFICATE

This plat has been approved by the Jasper County Highway Department with respect to roadway access pursuant to the requirements of Jasper County governing access rights.

County Engineer

Date

(E)

COUNTY CLERK'S CERTIFICATE

I, _____, County Clerk of Jasper County, Illinois, do hereby certify that I find no unpaid or forfeited taxes against any of the real estate included within this plat.

County Clerk

Date

(F)

CERTIFICATE OF CITY COUNCIL

I, _____, Mayor of the City, do hereby certify that the plat shown herein was duly presented to the City Council and approved at a meeting of same held on ____ (date) ____.

Mayor, City of Newton

City Clerk, City of Newton

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waters into public areas, or drains which the subdivider has a right to use, and that such surface waters will not be deposited on the property of adjoining land owner's in such concentrations as may cause damage to the adjoining property because of the construction of the subdivision.

By: _____
Owner(s)
By: _____
Illinois Registered Engineer

Registration Number

Date

34-3-26 ADMINISTRATIVE REVIEW, ADVISORY REPORT. Within **thirty (30) days** from the date of application for Final Plat approval, the City Engineer and the Administrator shall review said Final Plat (and supporting data), and shall each advise the City Council in writing whether it substantially conforms to the approved preliminary plat and improvement plans. A copy of their Advisory Report shall be forwarded to the Plan Commission. The Plan Commission may prepare an addendum to said report (should they so desire), and forward same to the City Council.

34-3-27 ACTION BY CITY COUNCIL. The City Council shall either approve or disapprove the application for Final Plat approval by resolution within **sixty (60) days** from the date of said application or the filing of the last item of required supporting data, whichever date is later, unless the Council and the subdivider mutually agree to extend this time limit. The City Council shall not approve any Final Plat unless:

- (A) the final plat substantially conforms to the approved preliminary plat; and
- (B) the final plat manifests substantial compliance with the design and improvements standards of this Code, the Zoning Code, if any, and the Official Map; and
- (C) to the Council's knowledge and belief, the final plat complies with all pertinent requirements of State law; and
- (D) either of the following has been met:
 - (1) all required improvements have been completed, inspected, accepted, and dedicated; or
 - (2) the subdivider/developer has posted a performance bond to guarantee the satisfactory completion and dedication of all required improvements.

If the City Council disapproves the Final Plat, their resolution shall specify the aspects in which the Plat fails to meet the above conditions for approval.

The City Clerk shall attach a certified copy of the Council's resolution of approval or disapproval to the Final Plat. One copy of the resolution and plat shall be retained by the Clerk, one copy shall be filed with the Administrator, and one copy shall be given to the subdivider. **(See 65 ILCS 5/11-2-8)**

34-3-28 CHANGES IN APPROVED FINAL PLATS. Once a Final Plat is approved by the City Council, it shall not thereafter be modified; provided, however, that minor changes may be made upon written application to the Administrator. Major changes require the filing of a new Final Plat and complete re-review. **(See Section 34-4-4.6)**

34-3-29 - 34-3-34 RESERVED.

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DIVISION V - MAINTENANCE OF IMPROVEMENTS

34-3-35 **SUBDIVIDER'S RESPONSIBILITIES.** The subdivider/developer shall maintain all the improvements in the subdivision until they have been accepted by and dedicated to the City or other appropriate entity.

34-3-36 **MAINTENANCE BOND.** Prior to dedication, the subdivider/ developer shall post a maintenance bond with the City Clerk in the form approved by the City Attorney. Said bond shall be in the amount to be determined by the City Engineer to be sufficient to guarantee the satisfactory completion of the required improvements for a period of **two (2) years** from the date of their acceptance and dedication. In addition to the improvements, the maintenance bond shall cover any problems developing in the area of the subdivision which can be proven to have created as a result of the construction of the subdivision. If at any time during the **two (2) year** period the improvements are found to be defective or problems above develop, they shall be repaired, replaced, or corrected at the subdivider/developer's expense. If the subdivider/developer fails or refuses to pay such costs within **ninety (90) days** after demand is made upon him by the City Engineer, the City shall use the maintenance bond to make the necessary repairs, replacements, or corrections. If the cost of repairs, replacements, or corrections exceeds the bond amount, the subdivider/developer shall be liable for the excess. At the end of the **two (2) year** period, the maintenance bond shall be released. **[See Schedule "F" at the conclusion of the Chapter.]**

DIVISION VI - VACATION OF PLATS

34-3-37 **VACATION OF PLATS.** In accordance with State law (**III. Comp. Stats., Chap. 765, Secs. 205/6, 205/7, and 205/8**), any plat or part thereof may be vacated by the owner of the tract, at any time before the sale of any lot therein, by a written vacation instrument to which a copy of the plat is attached. If there are public service facilities in any street, other public way, or easement shown on said plat, the instrument shall reserve to the City or other public entity or public utility owning such facilities the property, rights-of-way, and easements necessary for continuing public service by means of those facilities and for maintaining or reconstructing the same. The vacation instrument shall be approved by the Council in the same manner as plats of subdivision and shall also be approved by the County Engineer, the Highway Commissioner of the appropriate township, the District Engineer of the State Department of Transportation, and the public utilities. In the case of the platted tracts wherein any lots have been sold, the written vacation instrument shall also be signed by all the owners of lots in said tracts.

SUBDIVISION CODE 34-4-1

ARTICLE IV - ADMINISTRATIVE PROCEDURES

34-4-1 ENFORCEMENT OFFICER, DUTIES. The Mayor or his 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 plats to the Plan Commission (See Art. III; Div. I);
- (B) to transmit improvements plans to the City Engineer for his review (See Art. III; Div. II);
- (C) to review and forward final plats to the City Council (See Sec. 34-3-23);
- (D) to issue stop orders as necessary when the City Engineer determines that approved improvements are being constructed in violation of this Code (See Sec. 34-3-10);
- (E) to pursue actions authorized at Section 34-3-19 when a developer fails to complete required improvements;
- (F) to evaluate and pass upon proposed changes in approved final plats (See Sec. 34-3-28);
- (G) to review and forward applications for subdivision variances to the Plan Commission (See Sec. 34-4-2);
- (H) to maintain up-to-date records of matters pertaining to this Code including, but not limited to, preliminary plats, as-built records of completed improvements (See Sec. 34-3-11), final plats, variances, and amendments;
- (I) to provide information to subdividers/developers and to the general public on matters related to this Code; and
- (J) to periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on such matters to the City Planning Commission as necessary.

34-4-2 SUBDIVISION VARIANCES. Any subdivider/developer desiring a variance from the requirements of this Code shall file a written application therefor with the City Council 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 City Engineer shall prepare an advisory report on every variance application and submit it, together with the completed application, to the Plan Commission.

34-4-3 REVIEW BY PLAN COMMISSION. The Plan Commission shall review the variance application and the City Engineer's comments, perform on-site review when appropriate, and submit their advisory report to the City Council together with their recommendation on preliminary plat approval (See Sec. 34-3-2). The Plan Commission's advisory report shall be responsive to all the variances standards set forth in Section 34-4-4.

34-4-4 ACTION BY CITY COUNCIL, VARIANCE STANDARDS. At the same meeting at which they take action on the application for preliminary plat approval (See Sec. 34-3-3), the 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:

- (A) the proposed variance is consistent with the general purposes of this Code (See Sec. 34-1-1); and
- (B) strict application of the subdivision requirements (See Article V) would result in great practical difficulties or hardship to the applicant, not a mere inconvenience; and

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(C) the proposed variance is the minimum deviation from the subdivision requirements that will alleviate the difficulties/hardship; and

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- (D) the plight of the applicant is due to peculiar circumstances not of his own making;
- and
- (E) the peculiar circumstances creating the variance request are not applicable to other tracts and, therefore, that a variance would be a more appropriate remedy than a code amendment; and
- (F) the variance, if granted, will not materially frustrate implementation of the comprehensive plan including the Official Map. **(See Section 34-5-2.2)**
Financial consideration or peculiar circumstances do not constitute a hardship.

34-4-5 AMENDMENTS. Amendments to this Code may be proposed by the City Engineer, any member of the City Council, any Plan Commission member, or any party in interest. Every amendment proposal shall be filed on a prescribed form in the Mayor's office. The Mayor shall promptly transmit each proposal, together with any comments or recommendations he may wish to make, to the Plan Commission for a public hearing.

(A) **Public Hearing, Notice.** The Plan Commission shall hold a public hearing on every amendment proposal within a reasonable time after said proposal is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing by publication in a newspaper of general circulation within this City.

(B) **Advisory Report, Action by City Council.** Within a reasonable time after the public hearing, the Plan Commission shall submit an advisory report to the City Council. The City Council shall act on the proposed amendment at their next regularly scheduled meeting following submission of this report. Without another public hearing, the City Council may either pass or reject the proposed amendment or may refer it back to the Plan Commission for further consideration.

34-4-6 SCHEDULE OF FEES. All fees indicated in tabular form below shall be paid to the City Clerk. Said 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	\$15.00 per lot or a minimum of \$500.00
Filing Improvement plans	\$1,500.00 flat fee
Improvements inspection	3% of estimated improvement costs
Filing final plat	\$5.00 per lot
Filing variance request	\$100.00 plus the cost of mailing; public notices, and the court recorder fees
Filing amendment proposal	\$100.00 plus the cost of mailing; public notices, and the court recorder fees

All of these fees shall be paid by the subdivider/developer or the applicant to the City Clerk's office at the time of the submission of documents.

34-4-7 PENALTIES.
(A) Any person who is convicted of a violation of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs. Each day that a violation continues shall be considered a separate offense; likewise, in the case of multiple violations, each violation shall be considered a separate offense.

(B) Nothing contained in this Section shall prevent the City from taking any other lawful action that may be necessary to secure compliance with this Code.

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ARTICLE V - DESIGN AND IMPROVEMENT STANDARDS

DIVISION I - GENERALLY

34-5-1 **APPLICABILITY OF ARTICLE.** No land within the subdivision and development jurisdiction of this municipality shall be subdivided or developed except in compliance with the regulations of this Article and the applicable provisions of State law. **(See III. Comp. Stats., Chap. 65, Sec. 5/11-12-8; Chap. 765, Secs. 205/1 et seq.)** No lot in any subdivision shall be conveyed until:

(A) the final plat of said subdivision has been approved by the City Council and recorded in the office of the County Recorder of Deeds; and

(B) the portion of said subdivision in which the lot is located has been improved in accordance with the requirements of this Article or until a performance bond or other security has been posted to assure the completion of such improvements.

The City shall not issue a Building Permit for any lot conveyed in violation of this Section.

34-5-2 **SUITABILITY FOR DEVELOPMENT GENERALLY.** Land that is unsuitable for development due to flooding, poor drainage, rough topography, adverse soil conditions, or other features which will be harmful to the health, safety, and general welfare of the inhabitants of the development and/or its surrounding areas shall not be subdivided or developed unless the subdivider/developer formulates adequate plans/methods to solve the problems caused by the adverse land conditions.

34-5-3 **RESERVATIONS FOR PUBLIC USE.** Instead of – or besides – requiring the developer to dedicate parcels, the City Council may require that the developer reserve land for parks, playgrounds, schools, or other public purposes in locations designated in the City's Comprehensive Plan, if any.

DIVISION II - LOT REQUIREMENTS

34-5-4 **LOT SIZE.** All lots in a subdivision shall comply with the applicable zone district requirements. **(See Zoning Code – Chapter 40)**

34-5-5 **ACCESS AND RELATIONSHIP TO STREET.** Land shall be subdivided in such a way that each lot abuts a street meeting the requirements of **Section 34-5-7**. All side lot lines shall be at right angles to straight street right-of-way lines or radial to curved street right-of-way lines except where a deviation from this rule will provide a better street and lot design.

34-5-6 **REFERENCE MONUMENTS.** Stone or reinforced concrete reference monuments, set in the ground in such a manner that they will not be moved by frost, shall be placed in the field in accordance with the Plats Act, as now or hereafter amended. **(III. Comp. Stats., Chap. 765, Sec. 205/1.)** All block corners shall be **thirty-six (36) inches** permanent concrete post monuments and **four (4) inches** in diameter. All lot corners shall be marked by **one-half (0.5) inch** iron pins not less than **twenty-four (24) inches** long. These pins shall be driven into the ground deep enough that they do not protrude above the ground surface more than **one-half (0.5) inch**.

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DIVISION III - STREET DESIGN STANDARDS

34-5-7 **PLAN INTEGRATION.** All streets shall be properly integrated with the existing and proposed street system indicated in the municipal comprehensive plan, and shall meet the specifications set forth in **Table 5-A**.

34-5-8 **RIGHT-OF-WAY AND PAVEMENT WIDTHS.** Every right-of-way established for subdivision purposes is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. All rights-of-way shall be dedicated to the public by the developer.

The minimum pavement widths shall be as noted in **Table 5-A**.

34-5-9 **TOPOGRAPHICAL CONSIDERATIONS.** Grades of street shall conform as closely as possible to the natural topography, but shall not exceed the maximum grade nor be less than the minimum grade indicated in the Table of Street Design Specifications. All streets shall be arranged so that as many as possible of the building sites are at or above street grade.

34-5-10 **THROUGH TRAFFIC DISCOURAGED.** Marginal access and local streets shall be laid out so as to discourage use by through traffic. The rigid rectangular gridiron street pattern shall be avoided, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged to effect a more desirable street layout.

34-5-11 **LIMITED ACCESS TO ARTERIALS.** Where a development abuts or contains an existing or proposed arterial street, the Plan Commission may recommend to the City Council that access to said arterial street be limited by one of the following means:

(A) by subdividing lots so they back onto the arterial street and front onto a parallel local street (double frontage lots), coupled with the installation of screening in a reserve (access-restricting) strip along the rear lot lines of such lots;

(B) a series of cul-de-sacs, U-shaped streets, or short loops entered from and generally at right angles to the arterial street, with the rear lot lines of the lots at the termini of such streets backing onto the arterial street; or

(C) a frontage road separated from the arterial street by a planting strip, but having access thereto at suitable points.

34-5-12 **DEAD-END STREETS.**

(A) **Temporary Stub Streets.** Streets shall be so arranged to provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire and police protection, and efficient provision of utilities, and where such continuation comports with the City's Official Map, if any. If the adjacent property is undeveloped and the street must dead-end temporarily, the right-of-way shall be extended to the property line, and no strip that would prevent connections with future streets shall be reserved. A temporary turnabout shall be provided at the terminus of any temporary dead-end street.

(B) **Permanent Dead-End Streets.** For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited to **five hundred (500) feet** in length.

The terminus of a permanent dead-end street shall not be closer than **fifty (50) feet** to the boundary of an adjacent tract. A cul-de-sac turnaround, having a minimum right-of-way radius of **fifty (50)**

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feet and a minimum pavement radius of **forty-two (42)** feet, shall be provided at the end of every permanent dead-end street.

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34-5-13 INTERSECTIONS.

(A) **Only Two Streets.** Not more than **two (2) streets** shall intersect at any one point.

(B) **Right Angles.** Streets shall be laid out so as to intersect as nearly as possible at right angles; in no case shall **two (2) streets** intersect at an angle of less than **seventy-five (75) degrees**. An oblique street shall be curved approaching an intersection and shall be approximately at right angles with said intersection for at least **one hundred (100) feet** therefrom.

(C) **Proper Alignment.** Proposed new intersections along one side of an existing street shall, whenever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than **one hundred twenty-five (125) feet** shall not be permitted, except where the intersected street has divided lanes without median breaks at either intersection. Intersections involving collector or arterial streets shall be at least **eight hundred (800) feet** apart.

(D) **Curb Radii.** To permit safe vehicular movements at corners, the minimum curb radius at the intersection of two streets shall be **twenty-five (25) feet** from back of curb.

(E) **Flat Grade.** Intersections shall be designed with a flat grade wherever practical. In hilly terrain, an area having not greater than a **three percent (3%)** slope for a distance of **fifty (50) feet** from the nearest right-of-way line of the intersecting street shall be provided at the approach to an intersection.

(F) **Maximum Cross-Slope.** The cross-slopes on all streets, including intersections, shall not exceed **three percent (3%)**.

(G) **Adequate Sight-Lines.** Where any street intersection will involve earth banks or existing vegetation on the triangular area shown in **Figure 1**, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent necessary to provide an adequate sight distance.

(H) **Driveways.** It shall be unlawful to construct a driveway in the triangular area shown in **Figure 1**.

34-5-14 REVERSE CURVES. A tangent at least **one hundred (100) feet** long shall be introduced between reverse curves on local and collector streets (**see Figure 2**).

34-5-15 IMPROVEMENTS TO EXISTING STREETS. Whenever any development abuts an existing street that is narrower than the standards indicated in the Table of Street Design Specifications, the subdivider shall dedicate sufficient right-of-way on the side abutting the development to permit compliance with those standards. The developer shall improve said street to the standards imposed at **Section 34-5-21** et seq., and pay one-half the cost of said improvements.

34-5-16 WHEN EXCESS RIGHT-OF-WAY REQUIRED. Right-of-way width in excess of the standards set forth in the Table of Street Design Specifications shall be required where:

(A) due to topography, additional width is necessary to provide adequate earth slopes; or

(B) due to the location of railroad tracks, additional width is needed to construct overpasses, underpasses, and approaches thereto.

34-5-17 - 34-5-19 RESERVED.

DIVISION IV - STREET IMPROVEMENT STANDARDS

34-5-20 STREET REQUIREMENTS. All streets shall be improved solely at the expense of the developer in accordance with the requirements set forth herein. Typical roadway and pavement sections are shown in **Figures 6 and 7**. Requirements for pavement materials, equipment, and methods of construction for bituminous concrete (flexible) pavements and Portland cement concrete (rigid) pavements are contained in **Table 5-B**. Existing streets that adjoin the development on one side only will be improved to meet the current street standards, and this cost will be shared equally between the City and the developer. Existing streets that join the development on both sides shall be improved at the developer's expense. The extent of the improvement of existing streets will be determined by the City and the developer during improvement plan approval process. IDOT Standard Specifications for Roads and Bridge Construction, policies and specifications shall be followed for all street design and construction, except as modified by this Code.

In general, all such new streets within the subdivision and all work to be undertaken thereon shall be designed and constructed according to IDOT Standard Specifications as the same are in effect at the time the Preliminary Plat and plans for such improvement work are submitted for approval.

34-5-21 PAVEMENT STRUCTURE. All streets shall be paved across the entire surface width specified in **Section 34-5-8**. The structural composition of the pavement shall conform to the minimum requirements set forth in **Table 5-B**. Design requirements for both rigid and flexible pavements are set forth hereinafter.

(A) **Flexible Pavements.** Flexible pavements are to be constructed as multi-layered structures combining hot mix bituminous concrete/bituminous base/crushed stone base/subbase. Each layer of material is to be constructed in lifts not to exceed the maximum lift thickness (compacted) specified in **Table 5-B**. The minimum width of any single pass for any lift/layer of bituminous mixture shall be **ten (10) feet**. There are alternate designs for either deep-strength asphalt or bituminous concrete on a crushed stone base/subbase.

(B) **Rigid Pavements.** Rigid pavements are specified as either reinforced or non-reinforced Portland cement concrete to be constructed either on a lime stabilized subgrade or on an underlayment (**See Table 5-B**). Alternate designs are shown for two of the five street classifications. The underlayment is to be **one-fourth (1/4) inch** thick fabric such as "Bidim" or "Petromat," or equal.

- (1) Contraction joints are to be provided at the spacings shown in **Table 5-B** for each of the various alternates. These transverse joints are to be sawed joints that are **one-eighth inch (1/8")** to **one-fourth inch (1/4")** wide with a depth equal to **one-fourth (1/4)** of the pavement thickness. Sawed construction joints are to be sawed within **twenty-four (24) hours** of placement on the concrete. All contraction joints are to be dowelled with the exception of the alleys and land access residential streets. Dowel sizes and spacing shall comply with the following requirements:

Min. Pavement Thickness	Min. Dowel Diameter	Min. Dowel Length	Min. Dowel Spacing
6"	5/8"	12"	12"
7"	3/4"	15"	15"
8"	1"	15"	12"

The dowel units are to be smooth, plain round bars placed at mid-height of the pavement with an expansion cap on one end. The bars, or assemblies,

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shall be placed so that the bars are parallel to the centerline and to the pavement surface and shall be treated to prevent bonding of the concrete.

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- (2) Longitudinal joints shall be constructed no closer than **eight (8) feet** and no farther apart than **fifteen (15) feet**. The longitudinal joints may be either "construction" joints or "sawed" joints. In either case, there shall be transverse #4 reformed tie bars, **thirty (30) inches** long, spaced at **thirty (30) inch** centers along all longitudinal joints. This includes the joint between the pavement and curb/gutter if the curb/gutter is not constructed integral with the pavement. As an option to tie bars, either a half-round or trapezoidal preformed keyway meeting the following dimensions may be used on longitudinal joints excluding the gutter joint:

Pavement Thickness	Half-Round Diameter	Trapezoidal		
		Edge Ht.	Depth	Inside Ht.
6"	2"	2"	1"	1"
7"	2"	2"	1"	1"
8"	2"	2"	1"	1"

Commented [JK1]:

Sawed longitudinal joints shall be sawed within **ten (10) days** of concrete placement and prior to any traffic or vehicles traveling on the surface.

- (3) Transverse Construction Joints shall be constructed at the end of each day's run or at locations where a "cold" joint will occur due to a delay or interruption in placement operations. All transverse construction joints shall be "tied" with #4 deformed billet bars, **thirty-six (36) inches** long, spaced at **twelve (12) inch** centers. Construction joints must be at least **five (5) feet** from a contraction joint.
- (4) Pavement Reinforcement shall be used in all rigid pavements designated as S.R.P.C.C. in Table 5-B. Reinforcement shall be welded wire fabric (**6" X 12"**) with W 4 wire transversely and W 5.5 wire longitudinally weighing approximately **54 lbs. per 100 sq. ft.** The fabric shall be lapped **twelve (12) inches** on transverse laps and **six (6) inches** on longitudinal laps. Reinforcement shall be placed on the subgrade and supported by proper chairs and spacers, prior to paving, at the heights specified below:

Pavement Thickness	Depth Below Pavement Surface
6"	2" min. 3" max.
7"	2" min. 3" max.
8"	3" min. 4" max.

Should the City and/or City Engineer or the developer's engineer determine that the minimal standards are not adequate for a given condition (i.e., traffic volume, size of loads, subgrade support, drainage, etc.), the required pavement design shall be determined by the subdivider's engineer on the basis of current pavement design procedures subject to the approval of the City Engineer.

- (5) All concrete shall be minimum 6.05 cwt/c.y.

34-5-22 CURB AND GUTTER. All streets, except alleys and collector commercial, local commercial, arterial or industrial, shall be constructed with Portland cement concrete vertical curb and gutter and/or V-type gutter in accordance with the dimensions and specifications shown, therefor, in the

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Appendices. Only vertical curb and gutter shall be constructed in Industrial Streets. The materials and construction methods for curb and/or gutter shall conform with IDOT standards, policies and specifications.

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Curb and/or gutter may be constructed either integrally or separately in conjunction with Portland cement concrete pavement. If constructed separately, the gutter flag shall be "tied" to P.C.C. pavement with **thirty (30) inch** long #4 reinforcing bars spaced at **thirty (30) inch** centers. New curb and gutter adjoining existing shall be "tied" together with **two (2) eighteen (18) inch** long #4 reinforcing bars drilled and epoxied into the existing curb and gutter and imbedded in the new concrete curb and gutter. (See **Figures 3 and 5**)

34-5-23 **EARTH SUBBASE.** The earth subbase shall be compacted to not less than **ninety-five percent (95%)** of the standard laboratory density and shall extend across the entire width of the roadway. Soil analysis shall be performed to determine the standard laboratory density in accordance with Article 207.05 of the current edition of the **Illinois Department of Transportation's "Standard Specifications for Road and Bridge Construction"**. The results of the soil analysis shall be filed with the City Engineer and compaction testing of the earth subbase shall be required in the areas of both driving lanes at a minimum sampling rate of **one (1) test** per lane per **five hundred (500) lineal feet** of roadway length. All tests required shall be run by the subdivider's authorized agent and the results, along with the certification of the subdivider's Engineer, shall be filed with the City Engineer.

34-5-24 **MAINTENANCE RESPONSIBILITY.** Subsequent to completion of street construction by the subdivider, the City Engineer shall make a final inspection of all streets to ascertain the acceptability of structural condition, earth slopes, drainage structures, etc. If said inspection indicates no deficient items, the City shall take formal action to accept the completed streets for maintenance based upon the Engineer's recommendation.

Should any item need correction or repair, the subdivider will be notified in writing of each deficiency. No street(s) shall be accepted in a subdivision until all streets comply with the City's requirements to the satisfaction of the City Engineer. In addition, the developer shall be required to provide a guarantee in the form of a Surety Bond in the amount of **twenty-five percent (25%) of the approved construction cost estimate** for a period of **two (2) years**.

DIVISION V - BLOCKS

34-5-25 **BLOCK WIDTH.** Blocks shall be sufficiently wide to accommodate **two (2) tiers** of lots having the minimum depth required by the zoning district regulations; provided, that this requirement may be waived in blocks adjacent to local collector or collector streets, railroads, or watercourses.

34-5-26 **BLOCK LENGTH.** No block shall be longer than **one thousand four hundred (1,400) feet** nor shorter than **five hundred (500) feet**. Wherever practicable, blocks along collector streets shall not be less than **one thousand (1,000) feet** in length.

34-5-27 **CROSSWALKS.** Crosswalks, not less than **ten (10) feet** wide, may be required through the center of blocks more than **one thousand (1,000) feet** long where necessary to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities.

34-5-28 **RESERVED.**

SUBDIVISION CODE 34-5-29

DIVISION VI - SIDEWALKS

34-5-29 **SIDEWALKS.** Sidewalks shall be required:

- (A) on at least **one (1) side** of a local street, when residential density is **two (2)** or more dwelling units per net acre; and
- (B) along collector streets, near schools, and in shopping areas and similar public places.

These requirements shall not be waived unless the Planning Commission advises the City Council that, in the area in question, sidewalks are not needed to ensure public safety, and/or that topographical conditions make the installation of sidewalks impractical.

All sidewalks constructed within the municipality shall meet IDOT standards, policies and specifications.

34-5-30 **SIDEWALK CONSTRUCTION STANDARDS.**

- (A) **Relationship to Curb.** The outside edge of every sidewalk shall be located **twelve (12) inches** inside right-of-way.
- (B) **Width.** Residential sidewalks shall be at least **four (4) feet** wide. Non-residential sidewalks shall be at least **five (5) feet** wide.
- (C) **Thickness of Concrete.** All sidewalks shall be constructed of concrete at least **four (4) inches** thick, except that across driveways the thickness shall be increased to **six (6) inches** and/or number **six (6)** reinforcing mesh shall be used.
- (D) **Grade.** No sidewalk shall be constructed at a grade steeper than **five percent (5%)** or at a cross slope steeper than **two percent (2%)**.
- (E) **Ramps at Intersections.** Curbs shall be cut and sidewalks shall be ramped at all intersections so as to enhance the mobility of handicapped individuals and shall meet the requirements of the Illinois Accessibility Code.

34-5-31 **RESERVED.**

DIVISION VII - STREETLIGHTS

34-5-32 **INTERSECTION LIGHTING.** Streetlights shall be provided at each intersection of streets (or alleys) within a subdivision and at each cul-de-sac, but in no event shall there be less than one streetlight per **four hundred (400) feet** (or portion thereof) of street frontage between intersections, or between a street intersection and the terminus of a dead-end street. Additionally, in multi-family dwelling subdivisions, lighting shall be provided within parking areas at a minimum rate of one light per **twenty-five (25) parking spaces** or any fraction thereof.

34-5-33 **STREETLIGHT SYSTEM STANDARDS.** The design and installation of the streetlight system in every subdivision shall be reviewed by the City Engineer and the appropriate electric utility company.

The lighting intensity of each streetlight shall be equivalent, at a minimum, to a **175 watt lamp** or **6800 mercury luminary lamp**. Each streetlight standard (post) shall be at least **sixteen (16) feet** high.

34-5-34 **RESERVED.**

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DIVISION VIII - SIGNS

34-5-35 **STREET SIGN SPECIFICATIONS.** Street name signs of the size, height, and type approved by City Council shall be supplied and placed by the developer at all intersections within or abutting any subdivision. Street names shall be sufficiently different in sound and spelling from other street names in this municipality so as to avoid confusion. The City Clerk shall maintain a list of existing street names for reference. A street which is planned as a continuation of an existing street shall bear the same name.

34-5-36 **STOP SIGNS.** Stop signs shall be provided by the developer. The City Superintendent shall specify the design and the location of the signs. He shall inspect the final installation.

DIVISION IX - UTILITIES

34-5-37 **UTILITY LOCATION AND EASEMENTS REQUIRED.** All utility lines shall be located underground throughout the subdivision, in such a manner that the various service lines can be logically extended to adjacent areas and that such underground services do not adversely affect one another. Generally, gas, electric, telephone and CATV utility lines shall be buried a minimum of **one (1) foot** below the finished grade, while water and sewer utility lines shall be a minimum of **three (3) feet**. In addition, any support equipment required to be above ground (e.g., transformer boxes, vaults, etc.) shall be located in a safe and sightly manner. No utility line shall be placed such that it runs parallel within the area bordered by vertical planes located **one (1) foot** inside and outside the curb and gutter lines.

Underground service connections to the property line of each platted lot shall be installed at the subdivider's expense; provided that, on the recommendation of the Plan Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership.

34-5-38 **UTILITY EASEMENTS.** Utility easements, not less than **twenty (20) feet** wide for sanitary sewers and water mains and not less than **fifteen (15) feet** wide for gas, electric, telephone, and cable television, shall be provided where necessary. Normally, in the case of abutting lots, an equal amount should be taken from each lot. Property owners may (at their own risk) plant shrubbery or hedges or install fences on the easement areas. Utilities (private and public), however, in order to have access for repair shall have the election to destroy said improvements and restore the area only by grading and seeding, or to have alternate access through the owner's property.

34-5-39 **MAINTENANCE EASEMENTS.** Maintenance easements of not less than **five (5) feet** in width shall be provided along all rear and side lot lines.

34-5-40 **EXCAVATION BACKFILL.** The trench width for installation of all water and sewer lines shall be a maximum of **one and one-half (1.5) foot** greater the outside diameter of the pipe being placed. Pipe shall be placed on bedding material of select material free of stones, frozen clods, or other materials likely to cause damage to the pipe material. The initial lift of backfill shall be select material free of stones, frozen clods, or other materials likely to cause damage to the pipe, placed such that uniform support of the pipe haunches is obtained and to a depth of one-half diameter of the pipe. The next life of backfill material shall again be select material free of stones, frozen clods, or other materials likely to cause

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damage to the pipe, placed for a minimum compacted depth of **six (6) inches** above the top of the pipe. The remaining backfill shall be placed in compacted layers of approximately **six (6) inch** lifts.

Water or sewer lines which fall within the area bounded by an imaginary vertical plane located **one (1) foot** outside the curb and gutter lines, shall be backfilled with sand placed in **six (6) inch** compacted lifts to a depth of **eighteen (18) inches** below the finished grade. Should the line cross beneath the curb and gutter or fall in the roadway, the last **eighteen (18) inches** of backfill shall consist of CA-6 gradation crushed stone compacted in **six (6) inch** lifts. Other areas may be backfilled with select earthen material. Water and sewer lines consisting of non-ferrous pipe materials shall require placing detector wires or tape such that the location of the line may be found using available metal detecting equipment.

34-5-41 **RESERVED.**

DIVISION X - WATER FACILITIES

34-5-42 **POTABLE WATER REQUIRED.** An adequate supply of potable water shall be provided to every platted lot in accordance with Illinois Department of Public Health regulations and the Illinois Environmental Protection Agency regulations. If the public water system is reasonably accessible, each lot shall be properly connected thereto at the property line. All water distribution lines shall be at least **eight (8) inches** in diameter and shall conform to the latest edition of Standard Specifications for Water and Sewer Construction in Illinois and in accordance with all City administrative regulations.

The developer shall provide at his expense a minimum of **one (1)** water main tap per lot and shall be responsible for having a curb box installed in accordance with City administrative regulations.

Where public water supply facilities are available, private water wells shall not be installed. Backflow prevention devices shall be provided on public water supply services on properties where an existing well is already located.

34-5-43 **FIRE HYDRANTS.** Fire hydrants of the type approved by the Fire Chief of the Fire Protection District (where applicable) shall be installed in every subdivision as part of the water distribution system. Unless otherwise stated, fire hydrants shall have at least a **five (5) inch** barrel, be equipped with **two (2) connections** for **two and one-half (2.5) inch** hose and **one (1) four (4) inch** pumper connection, and have a separate shutoff valve and box of at least **six (6) inches** in nominal size. In general, said fire hydrants shall be installed throughout the subdivision so that no residence shall be greater than **four hundred (400) feet** from a fire hydrant. This distance being measured from the center line of the street right-of-way to the residence. Commercial and industrial areas shall have **four hundred (400) foot** spacing for fire hydrants.

34-5-44 **RESERVED.**

DIVISION XI - SANITARY SEWERS

34-5-45 **COMPLIANCE WITH REGULATIONS.** All proposed sanitary sewer facilities shall comply with the regulations of the Illinois Department of Public Health and the Illinois Environmental Protection Agency, and shall be approved by the City Council. All water and sewer lines shall be constructed as per Standard Specifications for Water and Sewers Mains, State of Illinois, 5th Edition, or as amended.

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34-5-46 **WHEN PUBLIC SYSTEM AVAILABLE.** Whenever the public sanitary sewerage system is reasonably accessible, the developer shall extend said system throughout the subdivision, and shall provide each lot with a connection thereto. (Note: See Chapter 38 of City's Municipal Code for sewer main specifications.)

Systems requiring the installation of a lift station must be furnished with a station meeting the approval of the City. Occasionally the City may require the subdivider to install a system with a capacity greater than the needs of the individual subdivision. In these instances, the City may participate in the additional costs involved with increasing the capacity of the system.

34-5-47 **ALTERNATE METHODS OF DISPOSAL.** In the event it is not possible, or feasible, for the subdivider to extend the public sewer system into the proposed subdivision, for whatever reason, the subdivider has the right to petition the City to install an alternative method of sewage disposal. Any such petition shall be considered on an individual basis with each case standing on its own merit. No subdivision shall be approved without the City's approval of the method of sewage disposal:

(A) **Private Central Sewage Systems.** Upon specific approval of the City Council, the subdivider may install a private central sewage system. The City shall reserve the right to review and approve/reject the detailed plans for such a system. Approval of the plans by the City shall in no way be construed as acceptance of the design or operation or maintenance responsibility for said installation. Such installation shall be designed and constructed in accordance with the rules and regulations of the Illinois Environmental Protection Agency, and the Illinois Department of Public Health. The subdivider shall assume perpetual operational and maintenance responsibilities for such installation unless arrangements to the contrary are provided for in a formal written agreement between home owners and the subdivider. Failure of the subdivider to discharge his operational/maintenance responsibilities may result in a fine of **Seven Hundred Fifty Dollars (\$750.00)** per day for each day a deficiency exists and shall apply to the subdivider, his heirs, successors, or assigns.

(B) **Individual Disposal Systems.** Upon written approval of the City Council, the subdivider may install individual sewage disposal systems providing the lot size is in excess of **twenty thousand (20,000) s.f.** If such installations are permitted, they shall be designed and installed in accordance with the applicable provisions of the requirements and regulations of the "**Private Sewage Disposal Licensing Act and Code**" of the Illinois Department of Public Health or the County Health Department regulations whichever are stricter.

34-5-48 **RESERVED.**

(See Chapter 40 for the Zoning Code.)

DIVISION XII - STORMWATER CONTROL CODE

34-5-49 **AUTHORITY AND PURPOSE.** This Code is enacted pursuant to the police powers granted to the City by the **Illinois Compiled Statutes 55 ILCS 5/5-1041, 55 ILCS 5/5-1113, 55 ILCS 5/5-15001, and 55 ILCS 5/5-12001.**

The purpose of this Code is to diminish threats to public health and safety, protect property, prevent damage to the environment and promote public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any new development or redevelopment or other activity which disturbs or breaks the topsoil or otherwise results in the movement of earth, and/or changes the stormwater drainage pattern and/or stormwater flows from that which would have occurred if the land had been left in its natural state. This stormwater runoff and resulting soil erosion could result in the inundation of

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damageable properties, the erosion and destabilization of downstream channels, and the pollution of valuable stream and lake resources. This Code regulates these activities to minimize adverse impacts.

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The purpose of this Code is also to comply with the General National Pollutant Discharge Elimination System (NPDES) Permit No. ILR40 regulations, the Notice of Intent (NOI) submitted to the IEPA in 2003.

This Code is adopted to accomplish the following objectives:

- (A) To assure that new development or redevelopment does not increase the drainage or flood hazards, or create unstable conditions susceptible to soil erosion;
- (B) To protect new buildings and major improvements to buildings from flood damage due to increased stormwater runoff and soil erosion;
- (C) To protect human life and health from the hazards of increased flooding and soil erosion on a watershed basis;
- (D) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, correction of channel erosion problems, and flood rescue and relief operations caused by storm water runoff and soil erosion quantities from new development or re-development;
- (E) To protect, conserve, and promote the orderly development of land and soil, water, air, animal, and plant resources;
- (F) To preserve the natural hydrologic and hydraulic functions of watercourses and flood plains and to protect water quality and aquatic habitats;
- (G) To preserve the natural characteristics of stream corridors in order to manage flood and stormwater impacts, improve water and groundwater quality, reduce soil erosion, protect aquatic and riparian habitat, maintain quality forest resources, provide recreational opportunities, provide aesthetic benefits, enhance community and economic development.

34-5-50 **OTHER RELEVANT PERMITTING.** Before Development begins, all required Federal, State, and Local permits will have been officially approved. The acquisition of these permits shall be the sole responsibility of the applicant. These may include but are not limited to Section 404 of the Clean Waters Act, Section 106 of the National Historic Preservation Act, Section 10 of the Rivers and Harbors Act, or permitting required by the Illinois Department of Natural Resources, Office of Water Resources in accordance with the Rivers, Lakes and Streams Act, 615 ILCS, the Soil and Water Conservation Districts Act, 70 ILCS, the Farmland Preservation Act, 505 ILCS the Illinois Groundwater Protection Act, 415 ILCS and the National Pollutant Discharge Elimination System Permit (NPDES) through the Illinois Environmental Protection Agency, Division of Water Pollution Control. Compliance is also required with but not limited to the Subdivision Code.

34-5-51 **APPLICABILITY.** This Code applies to all new development or re-development in the City. Except as otherwise provided in this Code, no person, firm or corporation, public or private, the State of Illinois and its agencies, or political subdivisions, the United States of America, and its agencies or political subdivisions, any agent, servant, officer or employee of any of the foregoing which meets the following provisions or is otherwise exempted in this Code, shall commence any development activities without first having obtained approval from the City Council.

- (A) Any new development or re-development contains an area **five thousand (5,000) or more square feet** of total impervious surface (i.e., streets, roof, patio or parking area or any combination thereof); or
- (B) Any land disturbing activity (i.e., clearing, grading, stripping, excavation, fill, or any combination thereof) that affects an area of **five thousand (5,000) or more square feet**, or that will exceed **one hundred (100) cubic yards**; or
- (C) Any land disturbing activity if the activity is within **twenty-five (25) feet** of a river, lake, pond, stream, sinkhole, or wetland; and is done in conjunction with paragraphs (A) and (B) of this Section; or
- (D) Any land disturbing activity on the sloping side of the slope disturbance line and is in conjunction with this Section.

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34-5-52 **EXEMPTIONS.** Development Approval shall not be required for the following:

(A) Any new development, re-development or other activity falling below the minimum standards as set forth in **Section 34-5-51**.

(B) The agricultural use of land, including the implementation of conservation measures included in a farm conservation plan approved by the Soil and Water Conservation District, and including the construction of agricultural structures.

(C) The maintenance of any existing stormwater drainage/detention component or structure or any existing soil erosion/sediment control component or structure; including dredging, levee restoration, tree removal or other function which maintains the original design capacities of the above.

(D) The construction of, improvements to, or the maintenance of any street, road, highway or interstate highway performed by any unit of government whose powers grant such authority.

34-5-53 **DEVELOPMENT APPROVAL.** Development Approval is required for these uses but shall not be subject to the provisions of **Section 34-5-60 through 34-5-65**, Stormwater Drainage and Retention.

(A) Any land disturbing activity that is **one (1) acre** (43,560 S.F.) or less; or development of tracts of land where not more than **one (1)** single family dwelling is being erected; or, any lots in a new subdivision of land where the lots front and have their sole access on an existing street or roadway.

34-5-54 **EXCEPTIONS.** The City Council may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this Code:

(A) Application for exception shall be made by a verified petition of the applicant for Development approval stating fully the grounds of the petition and the facts relied upon by the applicant. Such petition shall be filed with the City Council. In order for the petition to be granted, it shall be necessary that the City Council find all of the following facts with the respect to the land referred to in the application:

- (1) That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record, that it is impossible or impractical for the applicant to comply with all of the requirements of this Code;
- (2) That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
- (3) That the granting of the exception will not be detrimental to the public welfare, environment or injurious to other property in the vicinity of the subjects property.

(B) Each application for an exception shall be made to the City Council. The Council will review the application and grant or deny the exception.

(C) The City Council shall hold a public hearing on each application for exception, within **thirty (30) days** after receiving the application, in the manner by ordinance. Within **thirty (30) days** after public hearing, the City Council shall either approve the site Development with the exceptions and conditions it deems necessary or it shall disapprove such Development and exception application, or it shall take other such action as appropriate.

34-5-55 **SEPARABILITY/SEVERABILITY.** The provisions and sections of this Code shall be deemed to be separable, and the invalidity of any portion of this Code shall not affect the validity of the remainder.

34-5-56 **RESPONSIBILITY.** The applicant shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the City or its officers or agents will not

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be made liable for such damage, by (1) approval of a Development under this Code, (2) compliance with the

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provisions of that Development or conditions attached to it by the City Council, (3) failure of City Officials to observe or recognize hazardous or unsightly conditions, (4) failure of City Officials to recommend denial or to deny a Development, or (5) exemptions from Development requirements of this Code.

34-5-57 NPDES COMPLIANCE. New and re-development, that is applicable to this Code (per Section 34-5-51) must comply with the NPDES regulations (the General NPDES Permit No. ILR40 and the NOI). NPDES compliance is obtained by adhering to this Code, ILR10 permits, the General NPDES for Jasper County and the NOI submitted for each individual community and all future steps taken by the individual communities to implement the NOI.

34-5-58 STORM SEWERS AND OTHER DRAINAGE APPURTENANCES. In addition to the installation of curbs or gutters along the streets, as required by **Section 34-5-22** of this Article, storm sewer systems shall be constructed 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 a professional engineer to accommodate the runoff incident for the **ten (10) year** design storm by the rational method. Copies of the design computations, complete with drainage area maps, shall be submitted with the plans. All storm sewer pipe and culverts shall meet the requirements of the **IDOT Standard Specifications for Road and Bridge Construction**, latest edition, unless otherwise approved by the City. All storm sewer pipe and culverts shall be **twelve (12) inches** or larger. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than **four hundred (400) feet** in the gutter, unless otherwise approved by the City. The storm water drainage system shall be separate and independent of the sanitary sewer system. Surface water drainage patterns shall be shown for each and every individual lot and block.

34-5-59 INFORMATION ACCESSIBILITY TO THE PUBLIC. Documents relating to the adherence to this Code are available for review by request at City Hall.

DIVISION XIII - DEFINITIONS

34-5-59 DEFINITIONS. For the purposes of this Code certain terms are defined and set forth below:

Adverse Impacts: Any negative impact on plant, soil, air or water resources affecting their beneficial uses including recreation, aesthetics, aquatic habitat, quality, and quantity.

Applicant: Any person, firm, or governmental agency who executes the necessary forms to procure official approval of a development or permit to carry out construction of a new development or re-development from the City.

Base Flood Elevation: The elevation at all locations delineating the level of flooding resulting from the 100-year frequency flood event, which has a **one percent (1%)** chance of occurring in any given year.

Bypass Flows: Stormwater runoff from upstream properties tributary to a property's drainage system but not under its control.

Certify or Certification: Formally attesting that the specific inspections and tests were performed, and that such inspections and tests comply with the applicable requirements of this Code.

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Channel: Any defined river, stream, creek, brook, branch, natural or artificial depression, ponded area, on-stream lake or impoundment, karst area (sinkhole), flowage, slough, ditch, conduit, culvert, gully, ravine, wash, or natural or manmade drainage way, which has a definite bed and bank or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

Channel Modification: Alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, riprapping (or other armoring), filling, widening, deepening, straightening, relocating, lining, and significant removal of bottom or woody rooted vegetation. Channel modification does not include the man-made clearing of debris or removal of trash.

Clearing: Any activity which removes the natural vegetative ground cover.

Compensatory Storage: An artificially excavated, hydraulically equivalent volume of storage within the floodplain used to balance the loss of natural flood storage capacity when fill or structure are placed within the floodplain.

Conduit: Any channel, pipe, sewer or culvert used for the conveyance or movement of water, whether open or closed.

Cubic Yard: A **one (1) yard by one (1) yard by one (1) yard** amount of material in excavation and/or fill.

Detention Basin: A facility constructed or modified to provide for the temporary storage of stormwater runoff and the controlled release by gravity of this runoff at a prescribed rate during and after a flood or storm.

Detention Time: The amount of time stormwater is held within a detention basin.

Development: Any manmade change to real estate or property, including:

- (A) The division or subdivision of any duly recorded parcel of property;
- (B) Construction, reconstruction or placement of a building or any addition to a building;
- (C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days** per year;
- (D) Construction of roads, bridges, or similar projects;
- (E) Redevelopment of a site;
- (F) Filling, dredging, grading, clearing, excavating, paving or other non-agricultural alterations of a ground surface;
- (G) Storage of materials or deposit of solid or liquid waste;
- (H) Any other activity that might alter the magnitude, frequency, direction, or velocity of stormwater flows from a property.

Drainage Plan: A plan, including engineering drawings and supporting calculations, which describes the existing stormwater drainage system and environmental features, including grading, as well as proposed alterations or changes to the drainage system and environment of a property.

Dry Basin: A detention basin designed to drain after temporary storage of stormwater flows and to normally be dry.

Erosion: The general process whereby soil or earth is moved by rainfall, flowing water, wind or wave action.

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Excavation: Any act by which organic matter, earth, sand, gravel, rock or any other similar material, is cut into, dug, quarried, uncovered, removed, displaced, re-located or bulldozed and shall include the conditions resulting from such actions.

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Excess Stormwater Runoff: The volume and rate of flow of stormwater discharged from a new development or re-development which is or will be in excess of that volume and rate which existed before development or re-development.

Existing Grade: The vertical location of the existing ground surface prior to excavation or filling.

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 shall include the conditions resulting therefrom.

Final Grade: The vertical location of the ground surface after grading work is completed in accordance with the engineering plans.

Flood Fringe: That area as designated by the Federal Emergency Management Agency (FEMA) on either side of the floodway. This area is subject to inundation from the base flood but conveys little or no flow.

Flood Hazard Boundary Map (FHBM): A very generalized map prepared by the Federal Emergency Management Agency (FEMA) which shows only where floodplains are located based on very basic data. FHBM's do not include base flood elevations.

Flood Insurance Rate Map (FIRM): A map prepared by the Federal Emergency Management Agency (FEMA) that depicts the special flood hazard area (SFHA) within a community. This map includes insurance rate zones and regulatory floodplains and may or may not depict regulatory floodways.

Floodplain: That land adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation which is subject to inundation. The floodplain as designated by the Federal Emergency Management Agency (FEMA) is also known as the Special Flood Hazard Area (SFHA). These areas can be found on the (FIRM), Flood Boundary and Floodway Map, or the Flood Hazard Boundary Map (FHBM) of the community. This area is the collective combination of the regulatory floodway and the flood fringe.

Floodway: The channel and that portion of the floodplain, including on-stream lakes, adjacent to a stream or watercourse which is needed to store and convey the anticipated existing and future 100-year frequency flood discharge with no more than a **0.1 foot** increase in stage due to any loss of flood conveyance or storage and no more than a **ten percent (10%)** increase in velocities. Floodways are designated by FEMA on some Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. However, there are floodways on all streams whether mapped by FEMA or not.

Grading: The excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

Hydrograph: A graph showing for a given location on a stream or conduit, the flow rate with respect to time.

Hydrograph Method: This method estimates runoff volume and runoff hydrographs for the point of interest by generating hydrographs for individual sub areas, combining them, and routing them through stream lengths and reservoir structures. Factors such as rainfall amount and distribution, runoff curve number, time of concentration, and travel time are included.

Impervious Surface: That area of property that is covered by materials other than soil and vegetation and that has no intended capacity to absorb water, such as parking lots, driveways, sidewalks, patios, tennis courts, roofs and other structures.

Infiltration: The passage or movement of water into the soil surfaces.

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Loessal Soil: A sediment, commonly non-stratified and unconsolidated, composed predominately of silt sized particles with accessory clay and sand.

Lot: An individual platted parcel in an approved subdivision.

Major Drainage System: That portion of a drainage system needed to store and convey flows beyond the capacity of the minor drainage system.

Minor Drainage System: That portion of a drainage system designed for the convenience of the public. It consists of street gutters, storm sewers, small open channels, and swales and, where manmade, is to be designed to handle the 10-year runoff event.

Mitigation: Mitigation is when the prescribed controls are not sufficient and additional measures are required to offset the development, including those measures necessary to minimize the negative effects which stormwater drainage and development activities might have on the public health, safety and welfare. Examples of mitigation include, but are not limited to compensatory storage, soil erosion and sedimentation control, and channel restoration.

Modified Rational Method: As described in the Illinois Department of Transportation "Drainage Manual" is based on the principal that the maximum rate of runoff from a given drainage area occurs at that point in time when all parts of the watershed are contributing to the flow. The rainfall generating the peak flow is assumed to be of uniform intensity for the entire watershed with a rainfall duration equal to the time of concentration.

Natural: Conditions resulting from physical, chemical, and biological processes without intervention by man.

Natural Drainage: Channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

One Hundred-Year Event: A rainfall, runoff, or flood event having a **one percent (1%)** chance of occurring in any given year. A **twenty-four (24) hour** storm duration is assumed unless otherwise noted.

Parcel: All contiguous land in one ownership.

Peak Flow: The maximum rate of flow of water at a given point in a channel or conduit.

Permittee: Any person to whom a building permit is issued.

Person: Any individual, firm or corporation, public or private, the State of Illinois and its agencies or political subdivisions, the United States of America, and its agencies or political subdivisions, and any agent, servant, officer or employee of any of the foregoing.

Positive Drainage: Provision for overland paths for all areas of a property including depressional areas that may also be drained by storm sewer.

Prime Farmland: Prime farmland is land that is best suited to food, feed, forage, fiber and oilseed crops. It may be cropland, pasture, woodland, or other land, but it is not urban and built up land or water areas. It is either used for food or fiber or is available for those uses. The soil qualities, growing season and moisture supply are those needed for a well managed soil to economically produce a sustained high yield of crops. Prime farmland produces the highest yields with minimum inputs of energy and economic resources, and farming it results in the least damage to the environment.

Property: A parcel of real estate.

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Retention Basin: A facility designed to completely retain a specified amount of stormwater runoff without release except by means of evaporation, infiltration, emergency bypass or pumping.

Sedimentation: The process that deposits soils, debris, and other materials either on other ground surfaces or in bodies of water or stormwater drainage systems.

Site: A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Sinkhole. (Karst Areas): A Sinkhole or Karst topography is a land surface depression or blind valley which may or may not have surface openings to cavernous underground areas and are the result of water movement through silts and jointed limestone. These conditions make such areas unstable and susceptible to subsidence and surface collapse. Fractures in the limestone may channel runoff water to public or private water supplies, making those sources especially susceptible to groundwater contamination.

Slope Disturbance Line: The line which delineates relatively level building areas from areas where slopes exceed **eight percent (8%)** and where special precautions must be taken.

Stormwater Drainage System: All means, natural and manmade, used for conducting stormwater to, through or from a drainage area to the point of final outlet from a property. The stormwater drainage system includes but is not limited to any of the following: conduits and appurtenance features, canals, channels, ditches, streams, culverts, streets, storm sewers, detention basins, swales and pumping stations.

Stormwater Runoff: The waters derived from melting snow or rain falling within a tributary drainage basin which are in excess of the infiltration capacity of the soils of that basin, which flow over the surface of the ground or are collected in channels or conduits.

Storm Sewer: A closed conduit for conveying collected stormwater.

Stream: Any river, creek, brook, branch, flowage, ravine, or natural or man-made drainage way which has a definite bed and banks or shoreline, in or into which surface or groundwater flows, either perennially or intermittently.

Stripping: Any activity which, removes the vegetative surface cover including tree removal, by spraying or clearing, and storage or removal of top soil.

Ten-Year Event: A runoff, rainfall, or flood event having a **ten percent (10%)** chance of occurring in any given year. A **twenty-four (24) hour** storm duration is assumed unless otherwise noted.

Time of Concentration: The elapsed time for stormwater to flow from the most hydraulically remote point in a drainage basin to a particular point of interest in that watershed.

Tributary Watershed: All of the land surface area that contributes runoff to a given point.

Two-Year Event: A runoff, rainfall, or flood event having a **fifty percent (50%)** chance of occurring in any given year. A **twenty-four (24) hour** storm duration is assumed unless otherwise noted.

Vacant: Land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

Watershed: All land area drained by, or contributing water to, the same stream, creek, ditch, lake, marsh, stormwater facility, groundwater or depression area.

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Wet Basin: A detention basin designed to maintain a permanent pool of water after the temporary storage of stormwater runoff.

Wetlands: Wetlands are defined by regulation as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." For general, but not inclusive locations of designated wetlands refer to mapping prepared jointly by the U.S. Department of Interior, Fish and Wildlife Service and the Illinois Department of Natural Resources, Office of Resource Conservation; National Wetlands Inventory Mapping, 1987. The applicant may be required to provide a field investigation by a qualified wetland delineator.

DIVISION XIV - STORMWATER DRAINAGE AND DETENTION

34-5-60 DRAINAGE PLAN SUBMITTAL REQUIREMENTS. Each applicant shall submit the following information, to ensure that the provisions of this Code are met. The submittal shall include sufficient information to evaluate the environmental characteristics of the property, the potential adverse impacts and benefits of the development on water resources both on-site and off-site, and the effectiveness of the proposed drainage plan in managing stormwater runoff, and meet the provisions of **Section 34-5-50**. The applicant shall certify on the drawings that all clearing, grading, drainage, and construction shall be accomplished in strict conformance with the drainage plan. The following information shall be submitted for both existing and proposed property conditions for all new development or re-development.

(A) **Drainage Plan Requirements.** A topographic survey of the property at **two (2) foot** contours unless otherwise specified or approved by the City. If the mapping is compiled using a digital format the applicant will provide both paper and digital copies including points.

(B) **Mapping and Descriptions.** An existing drainage and proposed drainage plan, for the property and **one hundred (100) feet** surrounding the property at a scale of not more than **one hundred (100) feet to one (1) inch** and including the following:

- (1) property boundary, dimensions, and approximate acreage;
- (2) building setback lines;
- (3) all existing and proposed structures and sizes;
- (4) "area in" square feet of existing and proposed impervious surface;
- (5) all existing, or proposed easements;
- (6) all existing, abandoned, or proposed water or monitoring well head locations;
- (7) all sanitary or combined sewer lines and septic systems;
- (8) the banks and centerline of streams and channels;
- (9) shoreline of lakes, ponds, and detention basins with normal water level elevation;
- (10) known farm drains and tiles;
- (11) soils classifications;
- (12) location, size and slope of stormwater conduits and drainage swales;
- (13) depressional storage areas;
- (14) detention facilities;
- (15) roads, streets and associated stormwater inlets including finished grades;
- (16) base flood elevation, flood fringe, and regulatory floodway;
- (17) basis of design for the final drainage network components.
- (18) a statement giving any applicable engineering assumptions and calculations
- (19) a vicinity map showing the relationship of the site to its general surroundings at a scale of not less than **two thousand (2,000) feet to one (1) inch** (1:24,000)

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- (20) title, scale, north arrow, legend, seal of Licensed Professional Engineer, date, and name of person preparing plans.
- (21) cross-section data for open channel flow paths and designated overland flow paths;
- (22) direction of storm flows;
- (23) flow rates and velocities at critical points in the drainage system (may be included in the supporting documentation);
- (24) a statement by the design engineer of the drainage system's provision for handling events greater than the 100-year, 24 hour runoff (may be included in the supporting documentation); and,
- (25) a statement of certification of all drainage plans, calculations, and supporting data by an Illinois Licensed Professional Engineer.

(C) **Environmental Features.** A depiction of environmental features of the property and immediate vicinity including the following:

- (1) the limits of designated regulatory and non-regulatory wetland areas;
- (2) the location and limits of known sinkholes (karst areas);
- (3) any known designated natural areas, prime farmland; and
- (4) any known proposed environmental mitigation features.

34-5-61 MINIMIZATION OF INCREASES IN RUNOFF VOLUMES AND RATES. In the selection of a drainage plan for a new development or re-development, the applicant shall evaluate and implement site design features which minimize the increase in runoff volumes and rates from the site. The applicant's drainage plan submittal shall include evaluations of site design features which are consistent with the following hierarchy:

- (A) Preservation of regulatory floodplains, flood prone and wetland areas;
- (B) Minimize impervious surfaces on the property, consistent with the needs of the project;
- (C) Attenuate flows by use of open vegetated swales and natural depressions and preserves the existing natural stream channel.
- (D) Infiltration of runoff on-site;
- (E) Provide stormwater retention structures;
- (F) Provide wet or wetland detention structures;
- (G) Provide dry detention structures; and
- (H) Construct storm sewers.

34-5-62 WATER QUALITY AND MULTIPLE USES. The drainage system should be designed to minimize adverse surface and groundwater quality impacts off-site and on the property itself.

Water quality shall adhere to:

- (A) Illinois Environmental Protection Act – 415 ILCS 5/12, from Ch. 111 ½, par. 1011 and 1012;
- (B) Illinois Pollution Control Board Rules and Regulations – Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board, Part 302 Water Quality Standards; and
- (C) Illinois Pollution Control Board Rules and Regulations – Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board, Part 304 Effluent Standards.

Detention basins shall incorporate design features to capture stormwater runoff pollutants. When designers propose wet bottom and wetland type designs, all flows from the development shall be routed through the basin (i.e. low flows shall not be bypassed). When it is not practical or feasible to route all of the project's flow to the detention basin, the design of the basin shall compensate for the bypass flow. In cases where detention facilities are practical and the long term maintenance of such facilities are provided for, detention of stormwater shall be promoted throughout the property's drainage system to reduce the volume of stormwater runoff and to reduce the quantity of runoff pollutants.

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The drainage system should incorporate multiple uses where practicable. Uses considered compatible with stormwater management include open space, aesthetics, aquatic habitat, recreation (boating, fishing, trails, playing fields), wetlands and water quality mitigation.

34-5-63 DESIGN CRITERIA, STANDARDS, AND METHODS.

(A) **Release Rates.** The drainage system for new developments or redevelopments shall be designed to control the peak rate of discharge from the property for the **two (2) year**, and 100-year events to discharge rates at or below those which existed prior to development. Additionally, the discharge from a stormwater detention facility shall not cause an increase in flooding or channel instability downstream when considered in aggregate with other developed properties and downstream drainage capacities.

- (1) **Detention Basin Outlet Design.** The detention basin outlet control structure shall be designed to account for observed or anticipated downstream tailwater elevations. The tailwater elevations used in the detention model shall be for the particular storm frequency being routed through the detention basin. An emergency spillway or overflow device shall be provided and set at an elevation equivalent to the 100-year design high water.
- (2) **Calculations.** A calculation shall be made to determine the water elevation in the detention basin that would result from a 100-year storm with the outflow control structure openings blocked. The discharge rate flowing through the emergency spillway shall not exceed the 100-year pre-development flow rate. The top of bank for the detention basin shall be set at least **one (1) foot** above this elevation. The lowest finished floor elevation of adjacent structures shall also be at least **one (1) foot** above the detention basin top of bank.

(B) **Detention Storage Requirements.** See Section 34-5-63(A).

(C) **Drainage System Design and Evaluation.** The following criteria should be used in evaluating and designing the drainage system. The design will provide capacity to pass the 10-year peak flow rate in the minor drainage system and an overload flow path for flows in excess of the design capacity.

- (1) **Design Methodologies.** Detention basin design shall be calculated using SCS TR-55 methods. Basins with drainage areas of **ten (10) acres** or less may be calculated using the Rational Method as approved by the Illinois Department of Transportation. Other applicable methods, i.e. HEC-1, TR-20, SWMM, etc. shall be used for large watersheds.
- (2) **Positive Drainage.** Whenever practicable, all developments must be provided an overland flow path that will pass the 100-year, 24 hour event flow at a stage at least **one (1) foot** below the lowest grade, adjacent to a structure, in the vicinity of the flow path. Street ponding and flow depths shall not exceed curb heights.

(D) **Rainfall.** Unless a continuous simulation approach to drainage system hydrology is used, all design rainfall events shall be based on the Illinois State Water Survey's Bulletin 70. The first quartile point rainfall distribution shall be used for the design and analysis of conveyance systems with critical durations less than or equal to **six (6) hours**. The second quartile distribution shall be used for storms with durations greater than **six (6) hours** and less than or equal to **twelve (12) hours**. The third quartile point rainfall distribution shall be used for the design and analysis of detention basins and conveyance system with critical durations greater than **twelve (12)** and less than or equal to **twenty-four (24) hours**. The fourth quartile distribution shall be used in the design and analysis of systems with durations greater than **twenty-four (24) hours**. The first, third, and fourth quartile distributions described by Huff are presented in Table 37 of Bulletin 70. Refer to Table 13 of Bulletin 70 for rainfall depth, duration, and frequency. The NRCS Type II distribution may be used as an alternate to the Huff distributions. The total rainfall value for the design

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storm shall be adjusted for the "St. Louis Urban Effect" as given in Table 4, Illinois State Water Survey Circular 172.

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(E) **Antecedent Moisture.** Average antecedent moisture conditions shall be assumed when calculating runoff curve numbers for use in the SCS TR-55 method.

(F) **Wet Detention Basin Design.** Wet detention basins shall be designed to remove stormwater pollutants, to be safe, to be aesthetically pleasing, and as much as feasible to be available for recreational use.

- (1) **Wet Basin Depths.** Wet basins shall be at least **three (3) feet** deep, excluding near-shore banks and safety ledges. If fish habitat is to be provided they shall be at least **eight (8) feet** deep over **twenty-five percent (25%)** of the bottom area to prevent winterkill.
- (2) **Wet Basin Shoreline Slopes.** The side slopes of wet basins at the normal pool elevation shall not be steeper than **three to one (3 to 1)** horizontal to vertical). It is recommended that aquatic vegetation be established around the perimeter to provide protection from shoreline erosion. For basins in excess of **five (5) acres**, rip rap shoreline protection shall be provided.
- (3) **Permanent Pool Volume.** The permanent pool volume in a wet basin at normal depth shall, at a minimum, be equal to the runoff volume from its watershed for the 2-year, 24-hour event (calculated during dry weather conditions).
- (4) **Wet Basin Inlet and Outlet Orientation.** The distance between detention inlets and outlets shall be maximized. Inlets and outlets shall be at opposite ends of the basin providing that the orientation does not create undue hardship based on topography or other natural constraints.

(G) **Dry Detention Basin Design.** In addition to the other requirements of this Code, dry basins shall be designed to remove stormwater pollutants, to be safe, to be aesthetically pleasing and as much as feasible to be available for multiple uses. Paved low flow channels may be used in a dry basin provided provisions are made to prevent ponding.

- (1) **Dry Basin Drainage.** Dry basins shall be designed so that the bottom area shall have standing water no longer than **seventy-two (72) hours** for any runoff event less than the 100-year, 24 hour event.
- (2) **Velocity Dissipation.** Velocity dissipation measures shall be incorporated into dry basin designs to minimize erosion at inlets and outlets and to minimize resuspension of pollutants.
- (3) **Dry Basin Inlet and Outlet Orientation.** Shall be the same as **Section 34-5-63(F)(4)**.

(H) **Existing Depressional Areas.** Existing depressional storage volume will be maintained and the volume of detention storage provided to meet the requirements of this Code shall be in addition to existing storage.

(I) **Minimum Detention Outlet Size.** Where a single pipe outlet or orifice plate is to be used to control discharge, it shall have a minimum diameter of **twelve (12) inches** for larger basins. Smaller basins may install a smaller rectangular or v-notch weir to control discharge. If this minimum orifice size permits release rates greater than those specified in this Section, and regional detention is not a practical alternative, outlets, structures such as perforated risers, or flow control orifices shall be used.

(J) **Detention in Flood Plains.** The placement of detention basins within the flood plain is strongly discouraged because of questions about their reliable operation during flood events. However, the stormwater detention requirements of this Code may be fulfilled by providing detention storage within flood fringe areas on the project site provided the following provisions are met as well as compliance with **Section 34-5-50**.

- (1) **Detention in Flood Fringe Areas.** The placement of a detention basin in a flood fringe area shall require compensatory storage for **one and one-half (1.5) times** the volume below the base flood elevation occupied by the detention basin including any berms. The release from the detention storage provided shall still be, controlled consistent with the requirements of this Section. The applicant shall demonstrate its operation for all

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stream-flow and flood plain backwater conditions.

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Excavations for compensatory storage along watercourses shall be opposite or adjacent to the area occupied by detention. All flood plain storage lost below the existing ten-year flood elevation shall be replaced below the existing ten-year elevation. All flood plain storage lost above the existing ten-year flood elevation shall be replaced above the existing ten-year flood elevation. All compensatory storage excavations shall be constructed to drain freely and openly to the watercourse and comply with **Section 34-5-50**.

- (2) **Detention on Prime Farmland.** The placement of detention basins shall avoid the utilization of prime farmland. All detention basin construction shall examine potential impacts to adjacent agricultural land and shall address measures that will be implemented to eliminate such impacts and comply with **Section 34-5-50**.
- (3) **Detention in Floodways.** Detention basins shall be placed in the floodway only in accordance with **Section 34-5-63(J)**.
- (4) **On-Stream Detention.** On-stream detention basins are discouraged but allowable if they provide regional public benefits and if they meet the other provisions of this Code with respect to water quality and control of the 100-year 24-hour events from the property. Further criteria are presented in **Section 34-5-64** of this Code. If on-stream detention is used in watersheds larger than **one (1) square mile**, the applicant will use hydrographic modeling to demonstrate that the design will not increase the water level for any properties upstream or downstream of the property. Also, impoundment of the stream as part of on-stream detention:
 - (a) shall not prevent the migration of indigenous fish species, which require access to upstream areas as part of their life cycle, such as for spawning,
 - (b) shall not cause or contribute to the degradation of water quality or stream aquatic habitat,
 - (c) shall include a design calling for gradual bank slopes, appropriate bank stabilization measures, and a pre-sedimentation basin,
 - (d) shall not involve any stream channelization or the filling of wetlands,
 - (e) shall require the implementation of an effective non-point source management program throughout the upstream watershed which shall include as a minimum: runoff reduction "Best Management Practices" (BMP's) consistent with **Section 34-5-61**; 2 year, 24 hour detention/sedimentation basins for all development consistent with this Section.
 - (f) shall not occur downstream of a wastewater discharge, and
 - (g) shall not contribute to the duration or flood frequency of any adjacent land.
 - (h) shall comply with **Section 34-5-50**.

(K) **Drainage Into Wetlands, Rivers, Streams, Lakes, Ponds, and Depressional Storage Areas.** Wetlands, lakes, ponds and depressional storage areas shall be protected from damaging modifications and adverse changes in runoff quality and quantity associated with land developments. In addition to the other requirements of this Code, the following requirements shall be met for all developments whose drainage flows into wetlands, rivers, lakes, ponds or depressional storage areas:

- (1) **Detention in Wetlands, Rivers, Streams, Lakes, Ponds or Depressional Storage Areas.** Existing wetlands, rivers, lakes, ponds or depressional storage areas shall not be modified for the purposes of stormwater detention unless it is demonstrated that the proposed modifications will maintain or improve its habitat and ability to perform beneficial functions and shall comply with **Section 34-5-50**. Existing

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storage and release rate characteristics of wetlands, rivers, lakes, ponds or

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depressional storage areas shall be maintained and the volume of detention storage provided to meet the requirements of this Section shall be in addition to this existing storage.

- (2) **Sediment Control.** The existing wetlands, rivers, lakes, ponds, or depressional storage areas shall be protected during construction and as further regulated in **Division XV** of this Code.
- (3) **Alteration of Drainage Patterns.** Site drainage patterns shall not be altered to substantially decrease or increase the existing area tributary to the wetlands, rivers, lakes, ponds or depressional storage areas.
- (4) **Detention/Sedimentation.** All runoff from the development shall be routed through a preliminary detention/ sedimentation basin designed to capture the two-year, 24-hour event and hold it for at least **twenty-four (24) hours**, before being discharged to the wetland, river, lake, pond, or depressional storage area. This basin shall be constructed before property grading begins and shall be maintained throughout the construction process. In addition, the drainage hierarchy defined in **Section 34-5-60** should be followed to minimize runoff volumes and rates being discharged to the wetland, river, stream, lake, pond, or depressional storage area and as further regulated in **Division XIV** of this Code.
- (5) **Loessal Soils.** Care must be taken to avoid open flow discharges of stormwater over silt (loessal) soils due to high potential for erosion.
- (6) **Sinkholes, Karst Area.** The following requirements apply for new developments or redevelopments where sinkholes are determined to be present:
 - (a) A stormwater detention basin shall not be placed in or over a sinkhole.
 - (b) Stormwater detention basins shall not be located closer than **one hundred (100) feet** from the rim of a sinkhole.
 - (c) The outflow from a stormwater detention basin, channel, ditch or any stormwater runoff generated as a result of a new development or redevelopment shall not empty into or be directed, redirected by any means into or through any sinkhole.
 - (d) If, after the review of the stormwater drainage plan, the City may determine that more detailed information is required, a sinkhole evaluation may be required. A sinkhole evaluation which addresses the geologic, engineering and environmental factors resulting from a new development or redevelopment be performed by a professional with experience and expertise in karst topography, whom shall certify the results of the evaluation. This evaluation shall be the responsibility of the applicant and performed at no cost to the City. After a review of this evaluation and with the consultation of the Jasper County Soil and Water Conservation District, the City Council may either approve or disapprove the drainage plan as submitted.
 - (e) Whenever a new sinkhole appears or it becomes apparent that the sinkhole has not yet been identified, it shall be reported to the County Soil and Water Conservation District.
 - (f) Shall comply with **Section 34-5-50**.

(L) **Street Detention, Parking Lot Detention, and Culvert Drainage.**

- (1) **Street Detention.** Street detention is not permitted. If streets are to be used as part of the minor or major drainage system, ponding depths shall not exceed curb heights and shall not remain flooded for more than **eight (8) hours** for any event less than or equal to the 100-year, 24 hour event.
- (2) **Parking Lot Detention.** Parking lot detention is not permitted.

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- (3) **Culvert, Road and Driveway Crossings.** Sizing of culvert crossings shall consider entrance and exit losses as well as tailwater conditions on the culvert.

(M) **Infiltration Practices.** To effectively reduce runoff volumes, infiltration practices including basins, trenches, and porous pavement should be located in hydrologic soil groups "A" and "B" as designated by the USDA Natural Resources Conservation Service. Infiltration basins and trenches designed to re-charge groundwater shall not be located within **seventy-five (75) feet** of a water supply well or building foundation and comply with **Section 34-5-50**. A sediment settling basin shall be provided to remove coarse sediment from stormwater flows before they reach infiltration basins or trenches. Stormwater shall not be allowed to stand more than **seventy-two (72) hours** over **eighty percent (80%)** of the dry basin's bottom area for the maximum design event to be ex-filtrated. The bottom of infiltration basins or trenches shall be a minimum of **four (4) feet** above the seasonally high groundwater and bedrock level. Engineering calculations demonstrating infiltration rates shall be included with the application.

- (1) **Vegetated Filter Strips and Swales.** To effectively filter stormwater pollutants and promote infiltration of runoff, sites should be designed to maximize the use of vegetated filter strips and swales. Whenever practicable, runoff from impervious surfaces shall be directed onto filter strips and swales comprised of native grasses and forbs before being routed to a storm sewer or detention basin.

(N) **Safety Considerations.** The drainage system components, especially all detention basins, shall be designed to protect the safety of any children or adults coming in contact with the system during runoff events and shall comply with **Section 34-5-50**.

- (1) **Side Slopes.** The side slopes of all detention basins at 100-year, 24-hour capacity shall be as level as practicable to prevent accidental falls into the basin and for stability and ease of maintenance. Side slopes of detention basins and open channels shall not be steeper than three (3) to one (1) (horizontal to vertical).
- (2) **Safety Ledge.** All wet detention basins shall have a level safety ledge at least **four (4) feet** in width **two and one-half (2.5) to three (3) feet** below the normal water depth or must be protected by an enclosed fence, at least **forty-eight (48) inches** in height.
- (3) **Velocity.** Velocities throughout the surface drainage system shall be controlled to safe levels taking into consideration rates and depths of flow.
- (4) **Overflow Structures.** See **34-5-63(A)(1)**.

(O) **Maintenance Considerations.** The stormwater drainage system shall be designed to minimize and facilitate maintenance. Turfed side slopes shall be designed to allow lawn-mowing equipment to easily negotiate them. Wet basins shall be provided with alternate outflows which can be used to completely drain the pool for sediment removal. Pumping may be considered if drainage by gravity is not feasible. Pre-sedimentation basins shall be included, where feasible, for localizing sediment deposition and removal. Site access for heavy equipment shall be provided.

34-6-64 ACCOMMODATING FLOWS FROM UPSTREAM TRIBUTARY AREAS.

Stormwater runoff from areas tributary to the property shall be considered in the design of the property's drainage system. Whenever practicable, flows from upstream areas that are not to be detained should be routed around the basin being provided for the site being developed.

(A) **Upstream Areas Not Meeting Code Requirements.** When there are areas not meeting the storage and release rates of this Code, tributary to the applicant's property, regionalized detention on the applicant's property shall be explored by the applicant or the City. When it is deemed beneficial by the City or the Applicant to explore such a design, the following steps shall be followed:

- (1) The applicant shall compute the storage volume needed for his property using the release rates of **Section 34-5-63**, the applicant's property area, and the procedures described in **Section 34-5-62**.

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- (2) Areas tributary to the applicant's property, not meeting the storage and release rate requirements of this Code, shall be identified.

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- (3) Using the areas determined above plus the applicant's property area, total storage needed for the combined properties shall be computed.

Allowable release rates shall be computed using the combined property areas. Storage shall be computed as described in **Section 34-5-63**. If tributary areas are not developed, a reasonable fully developed land cover, based on local zoning, shall be used for the purposes of computing storage.

Once the necessary combined storage is computed, the City may choose to pay for over-sizing the applicant's detention basin to accommodate the regional flows. The applicant's responsibility will be limited to the storage for his property as computed above. If regional storage is selected by the City, then the design produced in **Section 34-5-62** shall be implemented. If regional storage is rejected by the City, the applicant shall bypass all tributary area flows around the applicant's basin whenever practicable. If the applicant must route upstream flows through his basin and the upstream areas exceed **one (1) square mile** in size, the applicant must meet the provision of **Section 34-5-64(B)** for on-stream basins.

(B) **Upstream Areas Meeting Code Requirements.** When there are areas which meet the storage and release rate requirements of this Code, tributary to the applicant's property, the upstream flows shall be bypassed around the applicant's detention basin if this is the only practicable alternative. Storage needed for the applicant's property shall be computed as described in **Section 34-5-64(A)**. However, if the City decides to route tributary area flows through an applicant's basin, the final design stormwater releases shall be based on the combined total of the applicant's property plus tributary areas. It must be shown that at no time will the release rate from the combined property exceed the allowable release rate for applicant's property alone.

34-5-65 EARLY COMPLETION OF DETENTION FACILITIES. Where detention, retention, or depressional storage areas are to be used as part of the drainage system for a property, they shall be constructed as the first element of the initial earthwork program. Any eroded sediment captured in these facilities shall be removed by the applicant on a regular basis and before project completion in order to maintain the design volume of the facilities.

DIVISION XV - SOIL EROSION AND SEDIMENT CONTROL

34-5-66 FINDINGS. The City hereby finds that:

- (A) The soil types found in the City are susceptible to erosion and if left unprotected could cause severe loss of soil with resultant damage to property;
- (B) The topography of the City contains areas with steep slopes upon which, if clearing of trees and/or inappropriate construction takes place, could result in severe erosion and slope stability problems which could result in damage to property;
- (C) Excessive quantities of soil may erode from areas undergoing development for certain non-agricultural uses including but not limited to the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways, the modification of stream channels and drainage ways, and the creation of recreational facilities;
- (D) The washing, blowing, and falling of eroded soil across and upon roadways endangers the health and safety of users thereof, by decreasing vision and reducing traction of road vehicles;
- (E) Soil erosion necessitates the costly repairing of gullies, washed out fills, and embankments;
- (F) Sediment from soil erosion tends to clog sewers and ditches and to pollute and silt rivers, streams, lakes, sinkholes, wetlands, and reservoirs;
- (G) Sediment limits the use of water and waterways for most beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life, and is costly and difficult to remove; and

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(H) Sediment reduces the channel capacity of waterways and the storage capacity of flood plains and natural depressions, resulting in increased chances of flooding at risk to public health and safety.

34-5-67 GENERAL PRINCIPLES. It is the objective of this Code to control soil erosion and sedimentation caused by development activities, including clearing, grading, stripping, excavating, and filling of land, in the City.

Water quality shall adhere to:

(A) Illinois Environmental Protection Act – 415 ILCS 5/12, from Ch. 111 ½, par. 1011 and 1012;

(B) Illinois Pollution Control Board Rules and Regulations – Title 35: Environmental Protection, Subtitle C: Water Pollution Chapter I: Pollution Control Board, Part 302 Water Quality Standards; and

(C) Illinois Pollution Control Board Rules and Regulations – Title 35: Environmental Protection, Subtitle C: Water Pollution, Chapter I: Pollution Control Board, Part 304 Effluent Standards.

Measures taken to control soil erosion and off-site sediment runoff shall be adequate to assure that sediment is not transported from the site by a storm event of ten-year, 24 hour frequency or less. The following principles shall apply to all new development or redevelopment activities within the City and to the preparation of the submissions required under **Section 34-5-68** of this Code.

(A) New development or redevelopment shall be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes greater than **thirty-three percent (33%)** where high cuts and fills may be required are to be avoided wherever possible, and natural contours should be followed as closely as possible.

(B) Natural vegetation shall be retained and protected wherever possible. Areas immediately adjacent to natural watercourses, lakes, ponds, sinkholes, and wetlands are to be left undisturbed wherever possible. Temporary crossings of watercourses, when permitted, must include appropriate stabilization measures.

(C) Special precautions shall be taken to prevent damages resultant from any necessary development activity within or adjacent to any stream, lake, pond, sinkhole or wetland. Preventive measures shall reflect the sensitivity of these areas to erosion and sedimentation.

(D) The smallest practical area of land shall be exposed for the shortest practical time during development.

(E) Sediment basins or traps, filter barriers, diversions, and any other appropriate sediment or runoff control measures shall be installed prior to site clearing and grading and maintained to remove sediment from run-off waters from land undergoing development.

(F) The selection of erosion and sediment control measures shall be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs, and benefits involved.

(G) In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance must be considered.

(H) Provision shall be made to accommodate the increased run-off caused by changed soil and surface conditions during and after development. Drainage ways shall be designed so that their final gradients and the resultant velocities and rates of discharge will not create additional erosion on-site or downstream.

(I) Permanent vegetation and structures shall be installed and functional as soon as practical during development.

(J) Those areas being converted from agricultural purposes to other land uses shall be vegetated with an appropriate protective cover prior to development.

(K) All waste generated as a result of site development activity shall be properly disposed of and shall be prevented from being carried off the site by either wind or water.

(L) All construction sites shall provide measures to prevent sediment from being tracked onto public or private roadways.

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(M) All temporary soil erosion and sediment control practices shall be maintained to function as intended until the contributing drainage area has been permanently stabilized at which time they shall be removed.

34-5-68 EROSION AND SEDIMENT CONTROL PLAN SUBMITTAL REQUIREMENTS. Each applicant shall submit the information depending on development size, as regulated to ensure that the provisions of this Code are met. The submittal shall include sufficient information to evaluate the environmental characteristics of the property, the potential adverse impacts of the development related to erosion both on-site and off-site, and the effectiveness of the proposed erosion and sediment control plan in reducing sediment loss and meet the provisions of **Section 34-5-50**. The applicant shall certify on the drawing that all clearing, grading, drainage, and construction shall be accomplished in strict conformance with the erosion and sediment control plan. The following information shall be submitted for both existing and proposed property conditions; new developments or re-developments meeting the requirements of **Section 34-5-51**.

(A) **Erosion and Sediment Control Plan Requirements.** Shall meet the requirements of **Section 34-5-60(A)**, **Section 34-5-60(B)**, and **Section 34-5-49**.

(B) **Mapping and Descriptions.** The existing and proposed erosion and sediment control features of the property and immediate vicinity including:

- (1) As required in **Section 34-5-60(A)**, **Section 34-5-60(B)**, and **Section 34-5-60(C)**;
- (2) Location of the slope disturbance line;
- (3) Location and description of the erosion and sediment control measures to be employed during construction;
- (4) For any structures proposed to be located on the slope side of the slope disturbance line the map shall include the limits of disturbance including tree removal, erosion and sediment control measures during construction, cross section view of any proposed cut or fill, erosion and sediment control measures during construction, details of method(s) proposed for providing slope stability, permanent stormwater control measures, and permanent erosion and sediment control measures all being certified by a registered professional engineer or a "Certified Professional Erosion Control Specialist."
- (5) The predominant soil types on the site, their location, and their limitations for the proposed use as defined by the USDA Natural Resources Conservation Service.
- (6) The proposed use of the site, including present and planned development, areas of clearing, stripping, grading, excavation and filling; proposed contours, finished grades, and street profiles; the stormwater plan as required in **Division XIII**; kinds and locations of utilities, areas and acreages proposed to be paved, sodded or seeded, vegetatively stabilized, or left undisturbed; and the location of specimen trees over **eighteen (18) inches** in diameter and their type.
- (7) The erosion and sediment control plan showing all measures necessary to meet the requirements of this Code throughout all phases of construction and those remaining permanently after completion of the development of the site, including:
 - (a) Location and description, including standard details, of all sediment control measures, runoff control measures, including diversions, waterways and outlets, and design specifics of sediment basins and traps including outlet details.
 - (b) Location and description of all soil stabilization and erosion control measures, including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates,

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type and rate of lime and fertilizer application, kind and quantity

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- of mulching for both temporary and permanent vegetative control measures, and types of non-vegetative stabilization measures.
- (c) Location and description of methods to prevent tracking of sediment off-site including construction entrance details, as appropriate.
 - (d) Description of dust and traffic control measures.
 - (e) Locations of stockpiles and description of stabilization methods.
 - (f) Location of off-site fill or borrow volumes, locations and methods of stabilization.
 - (g) Provisions for maintenance of control measures, including type and frequency of maintenance, easements, and estimates of the cost of maintenance.
 - (h) The proposed phasing of development of the site, including stripping and clearing, rough grading and construction, and final grading and landscaping. Phasing should identify the expected date on which clearing will begin, the estimated duration of exposure of cleared area, and the sequence of installation of temporary sediment control measures (including perimeter controls), installation of stormwater drainage, paving streets and parking areas, final grading and the establishment of permanent vegetative cover, and the removal of temporary measures. It shall be the responsibility of the applicant to notify the City Council of any significant changes which occur in the site development schedule after the initial erosion and sediment control plan has been approved.

34-5-69 DESIGN AND OPERATION STANDARDS AND REQUIREMENTS. The preparation of soil erosion and sediment control plans shall follow the principles outlined in the "Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control", excepting **Chapter 6** published by the Urban Committee of the Association of Illinois Soil and Water Conservation Districts. The design criteria, standards, and methods shall be prepared in accordance with the requirements of this Code and the standards and specifications contained in "Illinois Urban Manual" prepared for the Illinois Environmental Protection Agency by the USDA Natural Resources Conservation Service, which standards and methods are hereby incorporated into this Code by reference. In the event of conflict between the provisions of said manuals and of this Code, this Code shall govern.

(A) **Erosion and Sediment Control Design Requirements.** New developments or redevelopments shall comply with **Section 34-5-68** and meet the following:

- (1) Control measures shall be constructed to control runoff from the property to such an extent possible that sediment is retained on-site.
- (2) Temporary on-site control measures required shall be constructed and functional prior to initiating clearing, grading, stripping, excavating or fill activities on the site.
- (3) Disturbed areas shall be stabilized with permanent measures within **seven (7) calendar days** following the end of active disturbance, or re-disturbance consistent with the following criteria:
 - (a) Appropriate permanent stabilization measures shall include seeding, mulching, sodding, with non-vegetative measures as a last resort.
 - (b) Areas having slopes greater than **thirty-three percent (33%)** shall be stabilized with sod, mat, or blanket in combination with seeding or equivalent.

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- (4) All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure effective performance of their intended function.
- (5) All temporary erosion and sediment control measures shall be disposed in a proper manner within **thirty (30) days** after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.
- (6) **Site Development Requirements.** On-site sediment control measures, as specified by the following criteria, shall be constructed as specified in the referenced handbooks, and functional prior to initiating clearing, grading, stripping, excavating or fill activities on the site.
 - (a) For new developments or redevelopments less than **one (1) acre**, or for a tract of land where a single family dwelling is being erected and less than **ten thousand (10,000) square feet** of impervious surface is being developed, filter barriers (including filter fences, straw bales, or equivalent control measures) shall be constructed to control all on-site runoff. Vegetated filter strips, with a minimum width of **twenty-five (25) feet**, may be used as an alternative only where runoff in sheet flow is expected.
 - (b) For new developments or re-developments more than **one (1) acre** but less than **five (5) acres**, a sediment trap designed in accordance with the IEPA Standards and Specifications for Soil Erosion or equivalent control measure shall be constructed at the downslope point of the disturbed area.
 - (c) For new developments or redevelopments greater than **five (5) acres**, a sediment basin or equivalent control measure shall be constructed at the downslope point of the disturbed area.
 - (d) Sediment basin and sediment trap designs shall provide for both "dry" detention and "wet" detention sediment storage. The detention storage shall be composed of equal volumes of "wet" detention storage and "dry" detention storage and each shall be sized as regulated in **Division XIV**. The release rate of the basin shall be that rate as regulated in **Division XIV**. The elevation of the outlet structure shall be placed such that it only drains the dry detention storage.
 - (e) The sediment storage shall be sized to store the estimated sediment load generated from the site over the duration of the construction period with a minimum storage equivalent to the volume or sediment generated in **one (1) year**. For construction periods exceeding **one (1) year**, the 1-year sediment load and a sediment removal schedule may be substituted.
 - (f) The alteration of sinkholes by filling, grading or excavation is prohibited, including an area within **twenty- five (25) feet** from the rim.
 - (g) To the extent possible or as otherwise regulated in this Code all desirable trees **eight (8) inches** in diameter and larger shall be protected for their present and future value for erosion protection and other environmental benefits. Trees that have been selected for preservation shall be marked prior to the beginning of any clearing, grading, stripping, excavation, or filling of the site. A "No" construction zone shall be established and marked at the perimeter of the drip line of each tree which is to be preserved.

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- (7) Stormwater conveyance channels, including ditches, swales, and diversions, and the outlets of all channels and pipes shall be designed and constructed as regulated in **Division XIV**. All constructed or modified channels shall be stabilized within **forty-eight (48) hours**, consistent with the standards as required in the IEPA Erosion Control Manual "Standards and Specifications for Soil Erosion and Sediment Control".
- (8) Land disturbance activities in stream channels shall be avoided, where possible, or as regulated in **Division XIV**. If disturbance activities are unavoidable, the following requirements shall be met.
 - (a) Construction vehicles shall be kept out of the stream channel to the maximum extent practicable. Where construction crossings are necessary, temporary crossings shall be constructed of non-erosive material, such as riprap or gravel.
 - (b) The time and area of disturbance of stream channels shall be kept to a minimum. The stream channel, including bed and banks, shall be stabilized within **forty-eight (48) hours** after channel disturbance is completed, interrupted, or stopped.
- (9) Storm sewer inlets and culverts shall be protected by sediment traps or filter barriers meeting accepted design standards and specifications.
- (10) Soil storage piles containing more than **ten (10) cubic yards** of material shall not be located with a downslope drainage length of less than **twenty-five (25) feet** to a roadway, drainage channel, or sinkhole. Filter barriers, including straw bales, filter fence, or equivalent, shall be installed immediately on the downslope side of the piles.
- (11) If dewatering devices are used, discharge locations shall be protected from erosion. All pumped discharges shall be routed through appropriately designed sediment traps or basins, or equivalent and shall not be deposited into a sinkhole.
- (12) Each site shall have graveled (or equivalent) entrance roads, access drives, and parking areas of sufficient length and width to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by shoveling or street cleaning (not flushing) before the end of each workday and transported to a controlled sediment disposal area.

34-5-70 **MAINTENANCE OF CONTROL MEASURES.** All soil erosion and sediment control measures necessary to meet the requirements of this Code shall be maintained periodically by the applicant or subsequent land owner during the period of land disturbance and development of the site in a satisfactory manner to ensure adequate performance.

34-5-71 **CONTROL OF CONSTRUCTION SITE WASTES.** All waste materials generated during construction activities must be properly disposed. Examples of construction site waste may consist of, but not be limited to, all building materials, raised structure debris, concrete (including concrete truck wash), asphalt, brick, excess soil, rebar, erosion and sediment control materials, cleared vegetation, chemicals, temporary bathroom facilities and all other construction site wastes.

34-5-72 **CONSTRUCTION SITE STORM WATER POLLUTION PREVENTION PLAN.** Activities that are applicable to this Code, per **Section 34-5-51**, must provide a Construction Site Storm Water Pollution Prevention Plan (CSSPPP).

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The Construction Site Storm Water Pollution Prevention Plan may be a full sized plan sheet with necessary notes for requirements or may be a narrative explaining construction site operating procedures to minimize or eliminate storm water pollution as a result of construction activities.

The items covered in an approvable CSSPPP are dependent on the activities and the materials required on site to complete the project. Therefore, the detail of the plan may be more or less depending on site activities planned. Standard items included in a CSSPPP are, but are not limited to:

- (A) Purpose
- (B) Construction Site Description
- (C) Activities/Materials to be Addressed in the CSSPPP
- (D) Construction Site Operating Procedures
- (E) Activities/Materials Monitoring and Maintenance
- (F) Emergency and Spill Procedures

Should construction site activities/materials change during construction, the CSSPPP must reflect the changes. Therefore, the plan must be kept on-site at all times and be altered as necessary with the approval of the Inspector. Should major changes be warranted, a revised plan must be submitted for review and approval.

DIVISION XVI - LONG TERM MAINTENANCE RESPONSIBILITY

34-5-73 **LONG TERM MAINTENANCE RESPONSIBILITY.** Maintenance of stormwater drainage, and erosion and sediment control facilities located on private property shall be the responsibility of the owner of that property. Before approval is obtained from the City the applicant shall execute a maintenance agreement with the City guaranteeing that the applicant and all future owners of the property will maintain its stormwater drainage and erosion and sediment control system. Such agreement shall be recorded with the Recorder of Deeds of the County. The maintenance agreement shall include a schedule for regular maintenance of each aspect of the property's stormwater drainage and erosion and sediment control system and shall provide for access to the system for inspection by authorized personnel of the City. The maintenance agreement shall also stipulate that if the appropriate personnel of the City notify the property owner in writing of maintenance problems which require correction, the property owner shall begin such corrections within **twenty-four (24) hours** and shall not extend beyond **seven (7) calendar days** of such notification. If the corrections are not made within this time period the City may have the necessary work completed and assess the cost to the property owner. The City has the option of requiring a bond to be filed by the property owner for maintenance of the stormwater drainage and erosion and sediment control system.

DIVISION XVII - INSPECTIONS

34-5-74 **INSPECTIONS.** The City shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the developer wherein the work fails to comply with the stormwater drainage or erosion and sedimentation control plan as approved. Plans for grading, stripping, excavating, and filling work approved by the City Council shall be maintained at the site during progress of the work. In order to obtain inspections and to ensure compliance with this Code, the developer shall notify the City within **two (2) working days** of the completion of the construction stages specified below:

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(A) Upon completion of installation of the stormwater drainage and erosion and sediment control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading,

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- (B) After stripping and clearing,
- (C) After rough grading,
- (D) After final grading,
- (E) After seeding and landscaping deadlines, and
- (F) After final stabilization and landscaping, prior to removal of sediment controls.

If stripping, clearing, grading and/or landscaping are to be done in phases or areas, the developer shall give notice and request inspection at the completion of each of the above work stages in each phase or area. If an inspection is not made and notification of the results given within **five (5) working days** after notice is received by the City from the developer, the developer may continue work at his/her own risk, without presuming acceptance by the City. Notification of the results of the inspection shall be given in writing at the site.

34-5-75 BI-WEEKLY INSPECTIONS. Bi-weekly inspection reports shall be submitted to the City for all Developments. Except for the development of one single family dwelling, the Bi-weekly reports must be certified by a registered professional engineer, describing the current status of construction for proposed drainage and detention system, including whether drainage construction and erosion control has been installed in accordance with construction plans. Report shall define whether maintenance has been provided as needed for the erosion control.

34-5-76 SPECIAL PRECAUTIONS. If at any stage of the grading of any development site the City determines by inspection that the nature of the site is such that further work authorized by an existing approval is likely to imperil any property, public way, stream, lake, wetland, or drainage structure, the City may require, as a condition of allowing the work to be done, that such reasonable special precautions be taken as is considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.

(A) **Possibility of Storm Damage.** Where it appears that storm damage may result because the grading on any development site is not complete, work may be stopped and the developer required to install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the City may specify the time of starting grading and time of completion or may require that the operations be conducted in specific stages so as to ensure completion of protective measures or devices prior to the advent of seasonal rains.

34-5-77 AMENDMENT OF PLANS. Major amendments to stormwater drainage and detention or erosion and sediment control plans shall be submitted to the City Council and shall be processed and approved or disapproved in the same manner as the original plans. Field modification of a minor nature may be authorized by the City by written authorization to the developer.

DIVISION XVIII - APPROVAL

34-5-78 APPLICATION FOR DEVELOPMENT APPROVAL. Application for Development Approval shall be made by the owner of the property or his authorized agent to the City on a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner or developer of the site, the contractor(s) and any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee of **Two Hundred Dollars (\$200.00)** for approval subject to the requirements of **Division XIV,**

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SUBDIVISION CODE 34-5-78

Stormwater Drainage and Detention. No approval fee is assessed for those developments where only the

[2015]

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requirements of **Division XV**, Soil Erosion and Sediment Control, apply. Each application shall include certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the plans approved upon issuance of the approval.

34-5-79 BOND REQUIRED. The applicant for a Development may be required to file with the City, a faithful performance bond or bonds, letter of credit, or other improvement security satisfactory to the City in an amount deemed sufficient to cover all costs of improvements, landscaping, maintenance of improvements and landscaping, and soil erosion and sediment control measures for such period as specified by the City, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

34-5-80 REVIEW AND APPROVAL. Each application for a Development shall be reviewed and acted upon according to the following procedures:

(A) The City will review each application for a Development to determine its conformance with the provisions of this Code. The City may also refer any application to the County Soil and Water Conservation District, a consulting engineer retained by the City, and/or any other local government or public agency within whose jurisdiction the site is located for review and comment. All costs or fees acquired from the review shall be the responsibility of the applicant to reimburse the City in full before the approval is processed further. Within **sixty (60) days** after receiving an application and all costs or fees acquired, the City shall in writing:

- (1) Approve the development if it is found to be in conformance with the provisions of this Code;
- (2) Approve the development subject to such reasonable conditions as may be necessary to secure substantially the objectives of this Code, and issue the approval subject to these conditions; or
- (3) Disapprove the development, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(B) No approval for Development shall be issued for an intended development site unless:

- (1) The development, including but not limited to subdivision or planned unit development, has been approved by the City where applicable, or
- (2) the proposed earth moving is coordinated with any overall development program previously approved by the City for the area in which the site is situated; and
- (3) all relevant federal and state permits have been received for the portion of the site subject to soil disturbance as noted in **Section 34-5-50**.

(C) Failure of the City to act on an original or revised application within **sixty (60) days** of receipt shall authorize the applicant to proceed in accordance with the plans as filed and in compliance with the regulations contained herein, unless such time is extended by agreement between the City and the applicant. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City.

34-5-81 FINAL CERTIFICATION. Prior to final approval by the City a registered professional engineer shall certify that the detention basin has been constructed in accordance with construction plans and proposed volume has been provided. An "as-built" survey of the detention basin, prepared by a licensed surveyor, shall be included with the certification for approval.

34-5-82 EXPIRATION OF APPROVAL. Approval for Development shall expire and become null and void if the work authorized by such approval has not been commenced within **one hundred eighty (180) days**, or if not completed by the date specified; except that the City may, if the

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developer presents satisfactory evidence that unusual difficulties have prevented work being commenced

[2015]

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SUBDIVISION CODE 34-5-83

or completed within the specified time limits, grant a reasonable extension of time if written request is made prior to expiration of the specified time limit. The City may require modification of the erosion control plan to prevent any increase in erosion or off-site sediment runoff resulting from any extension.

34-5-83 **APPEALS.** The applicant, or any person or agency which received notice of the filing of the application, may appeal the decision of the City. Upon receipt of an appeal, the City shall schedule and hold a public hearing, after giving **fifteen (15) days** notice thereof. The City shall render a decision within **thirty (30) days** after the hearing. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands, any comprehensive watershed management plans, or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil or rock which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

DIVISION XIX - ENFORCEMENT

34-5-84 **STOP-WORK ORDER; REVOCATION OF APPROVAL.** In the event any person holding granted development approval pursuant to this Code violates the terms of the permit, or carries on-site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood of the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the Development approval.

(A) Suspension of approval shall be by a written stop-work order issued by the City and delivered to the developer or his agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall remain in effect until the next regularly scheduled meeting of the City Council at which time the conditions of **Section 34-5-82** above can be met.

(B) No Development approval shall be revoked until a hearing is held by the City. Written notice of such hearing shall be served on the developer, either personally or by registered mail, and shall state:

- (1) The grounds for complaint or reasons for suspension or revocation, in clear and concise language; and
- (2) The time when and place where such hearing will be held.

Such notice shall be served on the developer at least **five (5) days** prior to the date set for the hearing. At such hearing, the developer shall be given an opportunity to be heard and may call witnesses and present evidence on his behalf. At the conclusion of the hearing the City shall determine whether the permit shall be revoked.

34-5-85 **VIOLATIONS AND PENALTIES.** No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this Code. Any person violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this Code is committed, continued, or permitted shall constitute a separate offense. In addition to any other penalty authorized by this Section, any person, partnership, or corporation convicted of violating any of the provisions of this Code shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of such restoration.

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**CITY OF NEWTON
SUBDIVISION CODE**

SCHEDULES AND BONDS

Schedule A	Checklist for Preliminary Plat
Schedule B	Checklist for Engineering Plans
Schedule C	Checklist for Final Plat
Schedule D	Surety Bond for Improvements
Schedule E	Cash Bond
Schedule F	Maintenance Bond
Appendix A	Financial Commitment
Figure 1	Minimum Sight Lines at Intersections
Figure 2	Minimum Reverse Curves
Figure 3	Typical Curb and Gutter
Figure 4	Typical Cul-de-Sac
Figure 5	Typical Curb Inlet
Table 5-A	Street Design Specifications
Table 5-B	Minimum Requirements for Structural Composition of Pavements

Schedule A. Checklist for Preliminary Plat

_____ (Name of Subdivision)

_____ (Date of Submission)

_____ (Due date of recommendation – 90 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 copies of preliminary plan submitted.
- _____ 2. Plans conform to Sec. 34-3-3.
- _____ 3. Plan scale is not less than 1" to 100'.
- _____ 4. Minimum profile scale is 1" to 100' horizontal and 1" to 10' 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 professional 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" to 1,000'.
 - _____ 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 are 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' or less outside the boundaries are shown:
 - _____ a. Previously platted streets and other right-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, including:
 - _____ 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
 - _____ 4. Fire hydrants and auxiliary valves
- _____ j. Culverts, indicating:
 - _____ 1. Type
 - _____ 2. Location
 - _____ 3. Size
 - _____ 4. Invert elevation
- _____ k. Storm sewers, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Catch basins
 - _____ 4. Invert elevations
- _____ l. Watercourses, indicating:
 - _____ 1. Type
 - _____ 2. High water width and elevation
 - _____ 3. Width of easement
 - _____ 4. Location of easement
- _____ m. Marshes or wetlands, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
 - _____ 3. Soil bearing capacity
- _____ n. Floodplains, floodways, or flood prone areas, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
 - _____ 3. Type
- _____ o. Rock outcrops, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
- _____ p. 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' beyond, indicating:
 - _____ a. Existing contours at vertical intervals of not more than 2'.
 - _____ b. Proposed contours at vertical intervals of not more than 2'.
 - _____ c. Bench mark, indicating:

- _____ 1. Location
 - _____ 2. Description
 - _____ 3. Elevation
- _____ 19. Soil bearing data is given, if required by the municipality, 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' or less outside of the boundaries, are shown:
- _____ a. Layout of streets, indicating:
 - _____ 1. Arterial streets, indicating:
 - _____ a. Right-of-way width
 - _____ b. Roadway width, back to back of curbs
 - _____ 2. Collector streets, indicating:
 - _____ a. Right-of-way width
 - _____ b. Roadway width, back to back of curbs
 - _____ 3. Local streets, indicating:
 - _____ a. Right-of-way width
 - _____ b. Roadway width, back to back of curbs
 - _____ 4. Cul-de-sac streets, indicating:
 - _____ a. Right-of-way width
 - _____ b. Roadway width, back to back of curbs
 - _____ c. The length does not exceed 500' 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 120' in diameter.
 - _____ e. Terminus roadway width is 80' in diameter.
 - _____ 5. Marginal access street, indicating:
 - _____ a. Right-of-way width
 - _____ b. Roadway width, back to back of curbs
 - _____ 6. Through street shown extended to boundaries of subdivision
 - _____ 7. Storm water runoff pattern on paving
 - _____ b. Names of streets
 - _____ 1. Not duplicating the name of any street heretofore used in the municipality 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 prevent municipality standards.
 - _____ d. Utility easements:
 - _____ 1. Located at the rear of each lot and other necessary locations
 - _____ 2. Not less than 10' 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:
 - _____ 1. Location at approximately the center of blocks in excess of 1000' in length
 - _____ 2. Width not less than 10'
 - _____ 3. Shrub or tree hedge at side boundary lines
- _____ g. Block layout, indicating:
 - _____ 1. Blocks do not exceed 1200' in length
 - _____ 2. Additional access ways to parks, schools, etc., are shown in accordance with the plan commission's requirements
 - _____ 3. Blocks fit readily into the overall plan of the subdivision, with due consideration given to:
 - _____ a. Topographical conditions
 - _____ b. Lot planning
 - _____ c. Traffic flow pattern
 - _____ d. Public open space areas
 - _____ 4. Block numbers
 - _____ 5. Blocks intended for commercial, industrial or institutional use are so designated
- _____ h. Lot layout, indicating:
 - _____ 1. Lot dimensions
 - _____ 2. Lot areas, not less than those stipulated in the appropriated district regulations of the zoning code (Areas may be listed by Schedule)
 - _____ 3. Building setback lines shown and properly dimensioned
 - _____ 4. Proposed land use
 - _____ 5. Lot numbers
 - _____ 6. Corner lots are sufficiently larger than interior lots to allow maintenance of building setback lines on both street frontages and still allow a buildable width equal to that of the smallest interior lot in the block
 - _____ 7. All lots abut a publicly dedicated street for a distance of not less than the minimum width of the lot
 - _____ 8. Lots are as nearly rectangular in shape as is practicable
 - _____ 9. Lots are not less than the provision of the zoning code
 - _____ 10. Lot lines are substantially at right angles to the street lines and radial to curved street lines
 - _____ 11. Double frontage lots only where:
 - _____ a. Lots back upon an arterial street and front on an access street
 - _____ b. Topographic or other conditions make subdividing otherwise unreasonable
 - _____ c. Lots can be made an additional 20' deeper than average
 - _____ d. A protective screen planting is indicated on one frontage
 - _____ 12. Lots abutting or traversed by a watercourse, drainage way, channel way, channel, or stream, indicate:
 - _____ a. Additional width and depth to provide an acceptable building site
 - _____ b. Width of easement is at least 15' 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 plans
- _____ k. Provision for sewage disposal, indicating:
 - _____ 1. Connection to existing sanitary sewer mains
 - _____ 2. Location of site for community sewage disposal plant
- _____ l. School sites, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
 - _____ 3. Acreage
- _____ m. Topographic information, indicating:
 - _____ 1. Proposed changes in elevation of land showing that any flooding would be relieved
 - _____ 2. Adequate installation of storm sewers would remove the possibility of flooding
- _____ n. Sanitary sewer layout, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Invert elevation at manholes
 - _____ 4. Manhole locations
- _____ o. Watermain layout, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Looped pattern where practicable
 - _____ 4. Fire hydrants, as per Section 34-5-43
- _____ p. Storm sewer layout (See Ch. 32)
 - _____ 1. Location
 - _____ 2. Catch basins at not more than 600' intervals
 - _____ 3. Storm water is not carried across or around any intersection
 - _____ 4. Surface water drainage pattern for individual lot and block
- _____ q. Street light layout, indicating:
 - _____ 1. Locations and typical street light detail, or
 - _____ 2. Statement by subdivider that street lights will be installed in accordance with municipality standards
- _____ 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)

Reviewed by _____ (Zoning Administrator)

_____ (Date)

Considered by Plan Commission on _____ (Date)

_____ (Chairman)

Schedule B. Checklist for Engineering Plans

_____ (Name of Subdivision)

_____ (Date of Submission)

_____ (Due date of recommendation – 45 days)

NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers "not applicable" to this particular subdivision by the abbreviation "N.A."

- _____ 1. Plans have been submitted within twelve (12) months of the date of approval by the municipality board of the Preliminary Plan.
- _____ 2. Four (4) copies of engineering plans have been submitted.
- _____ 3. Plans conform to Article V, p. 858.
- _____ 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 streets.
 - _____ 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. Plans and profiles are on Federal Aid Sheets, plate I or II or equal.
 - _____ a. Horizontal scale is not less than 1" to 50'.
 - _____ b. Vertical scale is not less than 1" to 5'.
- _____ 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:
 - _____ a. All properties in the subdivision are served and house service connections are provided.
 - _____ b. The minimum size main is 8" I.D.
 - _____ c. The plan conforms to the overall municipal plan for any trunk sewers traversing the subdivision.
 - _____ d. The distance between manholes does not exceed 400'.
 - _____ 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'.
 - _____ h. Profile of existing and proposed ground surfaces.
 - _____ i. Risers are shown for individual house service laterals where depths of main exceeds 12'.
 - _____ j. Pipe joints are of permitted type.
 - _____ k. Minimum manhole cover weights are correct.
 - _____ 1. 540 pounds in collector streets.

- _____ 2. 400 pounds in minor and cul-de-sac streets.
- _____ 3. 335 pounds in rear-lot easements.
- _____ 12. An application for State Environmental Protection Agency approval of the water main installation accompanies the plans.
- _____ 13. Water distribution plans and specifications are complete and conform to the codes applicable thereto and include all of the following:
 - _____ a. All properties in the subdivision are served.
 - _____ b. The minimum size main is 6" 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 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 include the following information:
 - _____ 1. Corner curb radius is not less than 16'.
 - _____ 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'.
 - _____ 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" I.D., except that a lead from a single inlet may be 10" 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 municipality standards and include:
 - _____ 1. Paving base material
 - _____ 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, 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)
 Reviewed by _____ (Zoning Administrator)
 _____ (Date)
 Considered by Plan Commission on _____ (Date)
 _____ (Chairman)

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 plans.
- _____ 2. Plat has been submitted within three (3) years after the approval of the preliminary plan (unless an extension of time has been requested 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" equals 100').
- _____ 9. Section corners and section lines are accurately tied into subdivision by distances and angles.
- _____ 10. Official survey monuments are shown as required.
- _____ 11. All necessary easements are shown and dimensioned.
- _____ 12. Building setback lines are shown and dimensioned in accordance with the zoning code.
- _____ 13. Lot areas are in accordance with the applicable zoning regulations.
- _____ 14. Street names are shown.
- _____ 15. Areas to be dedicated or reserved for public use are shown and described and the purpose is designated.
- _____ 16. Protective covenants are lettered on the plat or are appropriately referenced.
- _____ 17. Required certificates are shown and signed:
 - _____ a. Surveyor's certificate (including legal description).
 - _____ b. Owner's certificate.
 - _____ c. Notary certificate.
 - _____ d. County Clerk certificate.
 - _____ e. Flood Hazard certificate.
 - _____ f. Plan Commission certificate.
 - _____ g. City Council Certificate.
 - _____ h. Administrator.
- _____ 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 City Council.

Completed by _____ (Name)
_____ (Address)
_____ (Date)
Reviewed by _____ (Zoning Administrator)
_____ (Date)
Considered by Plan Commission on _____ (Date)
_____ (Chairman)

Schedule D. 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 the City of Trenton, in the penal sum _____ 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
- Street lights
- Site improvements

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 improvement constructed under this bond for a period of two years from the date of acceptance of the same by the City.

'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."

Schedule E. Cash Bond

The Plan Commission may permit a developer to file in lieu of the surety bond called for in Schedule D, a cash bond guaranteeing that the improvements will be completed as follows:

(A) Undertaking in Lieu of Completion Bond.

WHEREAS, the statutes of the State of Illinois grant to a municipal corporation the right to require that a developer constructing certain improvements within that community guarantee the construction of such improvements by a completion bond or other security acceptable to the community; and WHEREAS, _____ desires to construct a residential development within the _____ of _____, and that said municipality is willing to accept an undertaking from a financial institution in the nature of an irrevocable commitment in lieu of such completion bond.

NOW, THEREFORE, are the following representations made by the owner and/or developer to the _____ of _____, as follows:

1. THAT _____ is the owner and/or developer of the property legally described in clause 2 of this undertaking, and shall hereinafter be referred to as "OWNER"; and, THAT the _____ of _____ shall hereinafter be referred to as "MUNICIPALITY".

2. THAT the OWNER is the legal title holder of the following described property:

[Legal Description]

3. THAT the OWNER shall be required to install and guarantee the installation of streets, sidewalks, street lights, sanitary sewers, storm sewers, water lines, recreational facilities (including structures), and common landscaping. In order to guarantee that such facilities shall be installed, the OWNER shall submit to the municipal engineer such specifications and estimated engineering costs as shall be required to meet with his approval. In aiding the municipal engineer in determining the amount of reasonably anticipated costs for the construction of such improvements, the OWNER may submit to the engineer signed contracts for the construction of such improvements. The municipal engineer, upon being satisfied that the design of the required improvements are in accordance with the ordinances of the MUNICIPALITY and in accordance with good engineering practices, shall estimate and certify an amount which shall represent one hundred ten percent (110%) of the reasonably estimated cost of completing the required improvements for which the MUNICIPALITY is requiring a completion guarantee.

4. [THAT except for the issuance of building permits for a reasonable number of models], the OWNER shall not be entitled to the issuance of [further] building permits until and unless said OWNER shall submit to the municipality an irrevocable financial commitment from a bank, savings and loan, or mortgage company approved by the municipality in the amount certified by the municipal engineer.

5. THAT the written irrevocable financial commitment shall be furnished by the municipality from a banking or lending institution in the form marked Appendix A and appended to this agreement.

6. THAT the OWNER guarantees the workmanship of the public improvements to be installed upon the site for a period of two (2) years 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____

Schedule F. Maintenance Bond

The contractor making subdivision improvements shall furnish a two-year maintenance bond in the amount of 25% of the total cost of any improvements and installations excluding street tree plants and landscaping, which are to be maintained by the municipality. Such bond shall be in full force and effect from the date of the letter from the Administrator certifying that all required subdivision improvements and installations have been completed. This bond shall provide that all defects in the improvements and installations will be corrected at the end of the bond period subject to the approval of the Administrator. In those cases where a surety bond has been posted for the improvements in accordance with division (D) of this section, the applicant may provide that the surety bond be extended to cover this two-year period. Otherwise, a separate maintenance bond shall be posted.

APPENDIX A: FINANCIAL COMMITMENT

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 and 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.

The required improvements shall be completed in accordance with the following schedule: [Insert Schedule].

If we receive a resolution of the corporate authorities of the municipality indicating that the owner and/or developer has failed to satisfactorily complete or carry on the work of the installation and construction of the required improvements, and such resolution indicates that the owner and/or developer has been notified that the municipality finds that a breach of the owner's and/or developer's obligations has occurred and have not been cured within a period of thirty (30) days, that in such case we shall make payments for materials and labor to such contractor(s) or subcontractor(s) retained by the municipality who have completed the improvements in substantial accordance with the plans and specifications of the owner and/or developer; such payments shall be made upon the certification of the municipal engineer that the work has been completed and the submission of proper waiver of liens from the contractor(s) or subcontractor(s). The amount of the payouts shall be in accordance with the retention provisions as previously set out.

The irrevocable credit established by us shall be in force for a period of _____ (_____) years, and shall remain in effect without regard to any default in payments of sums owned 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.

FIGURE 1
MINIMUM SIGHT
LINES AT
INTERSECTIONS

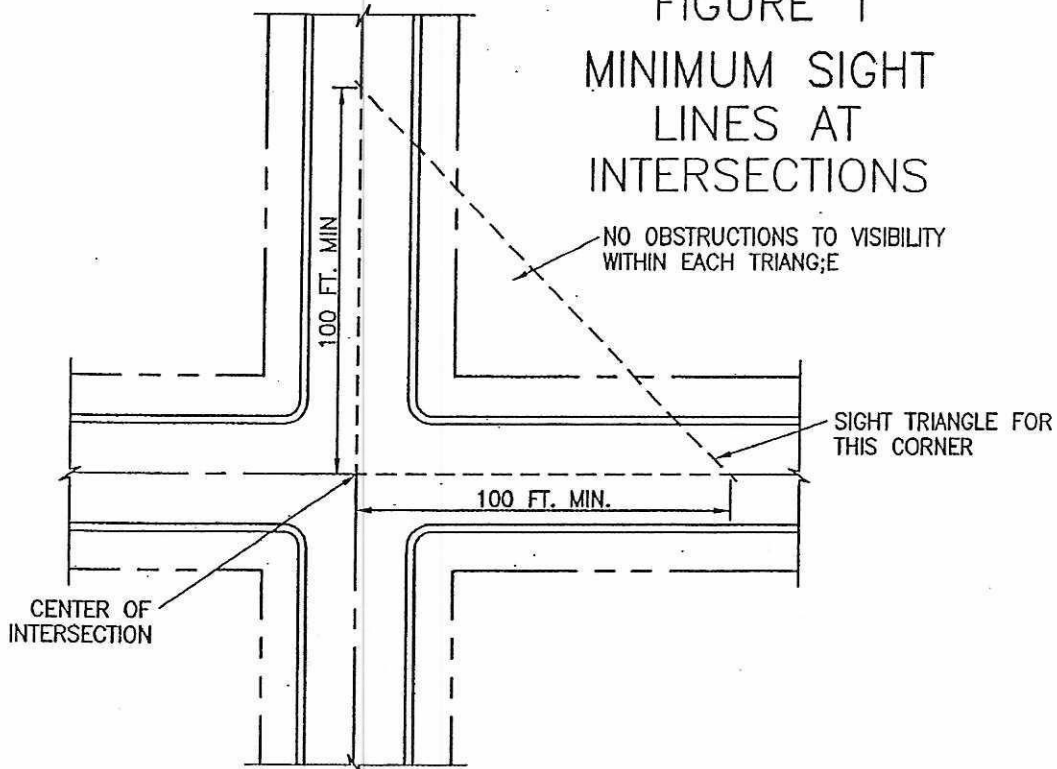
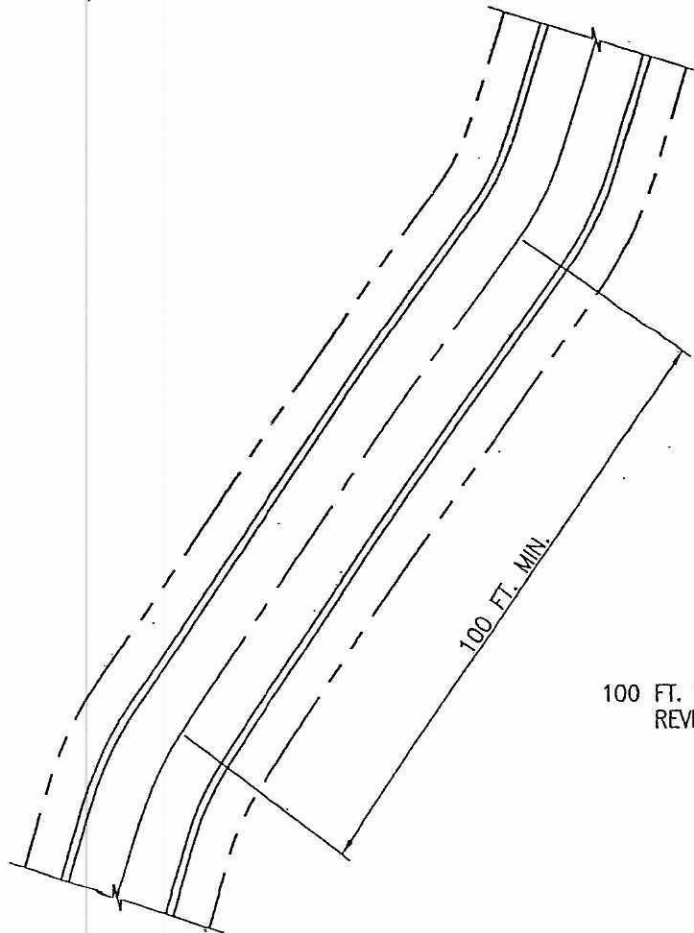
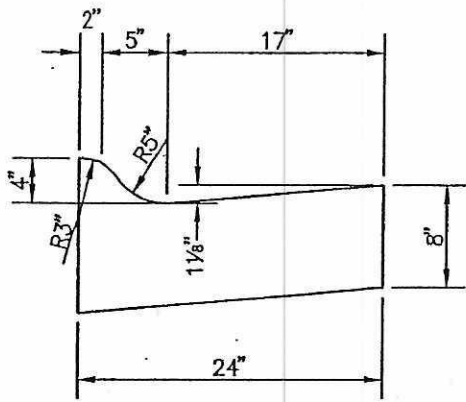


FIGURE 2
MINIMUM
REVERSE
CURVES

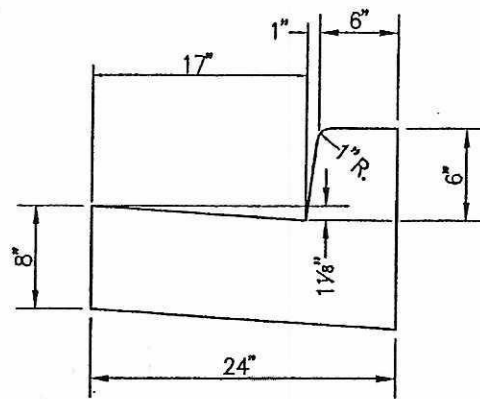


100 FT. TANGENT BETWEEN
REVERSE CURVES

FIGURE 3
TYPICAL CURB AND GUTTER



ROLLED CURB



BARRIER CURB

FIGURE 4
TYPICAL CUL-DE-SAC

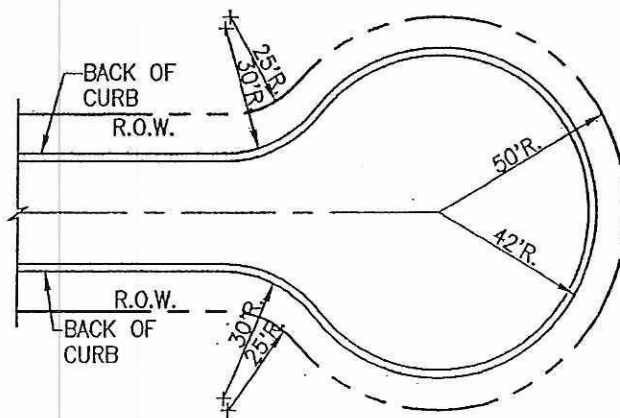
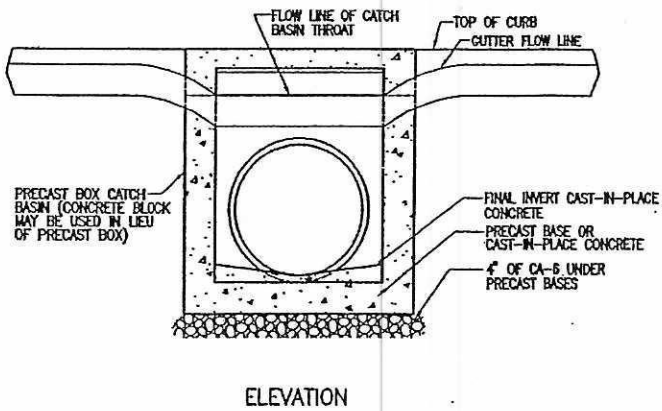
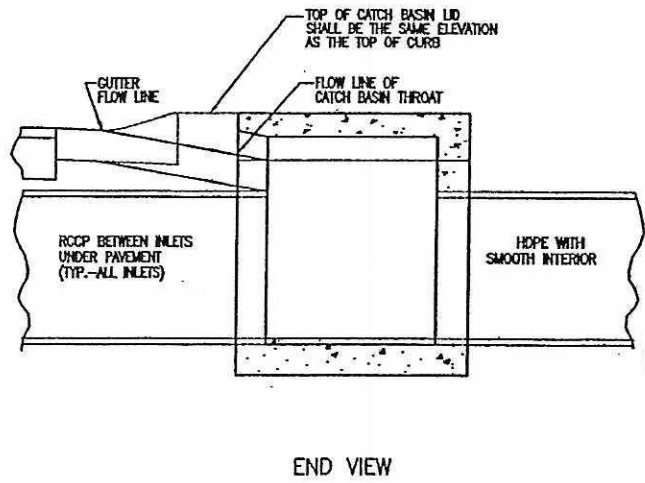
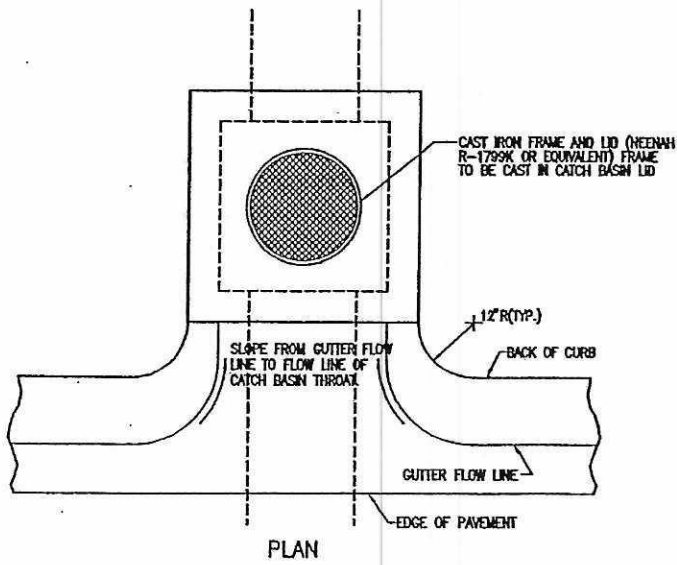
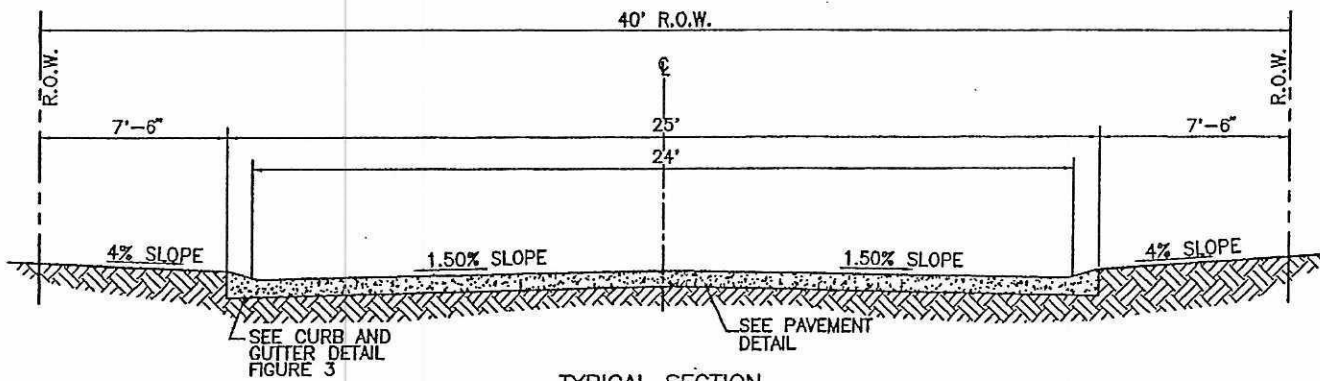


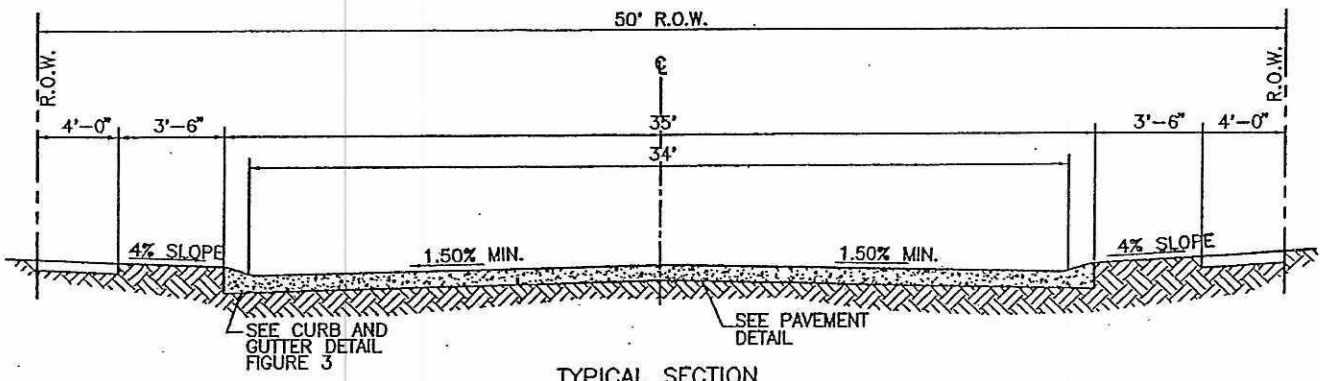
FIGURE 5
TYPICAL CURB INLET





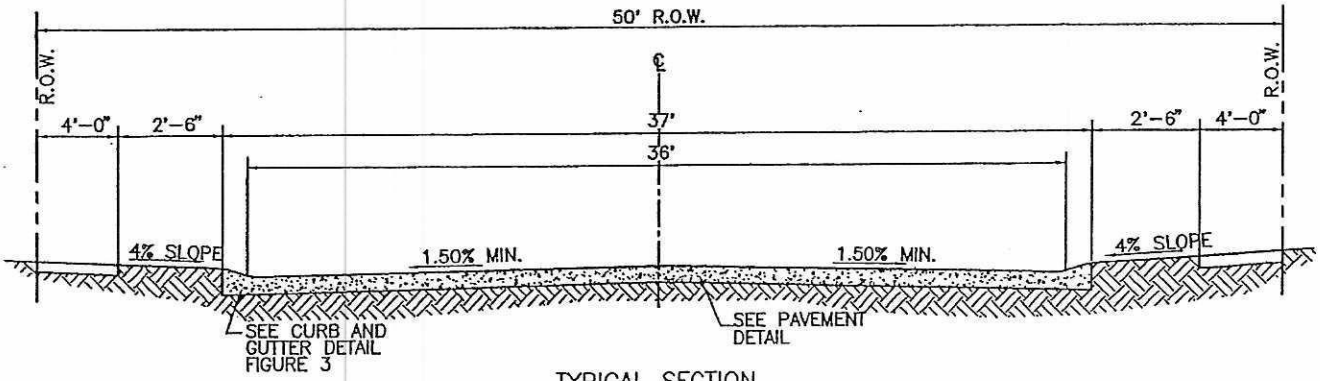
TYPICAL SECTION

MARGINAL ACCESS STREET



TYPICAL SECTION

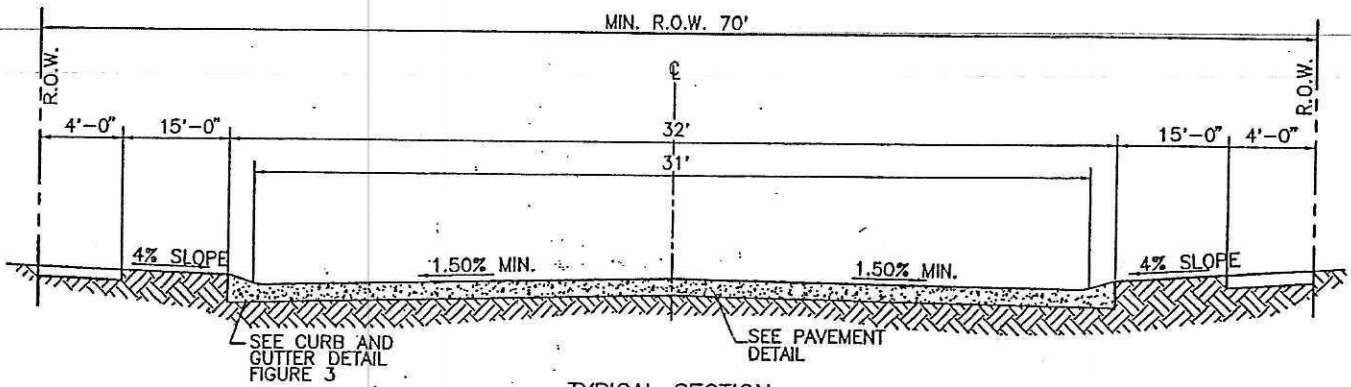
LOCAL STREET



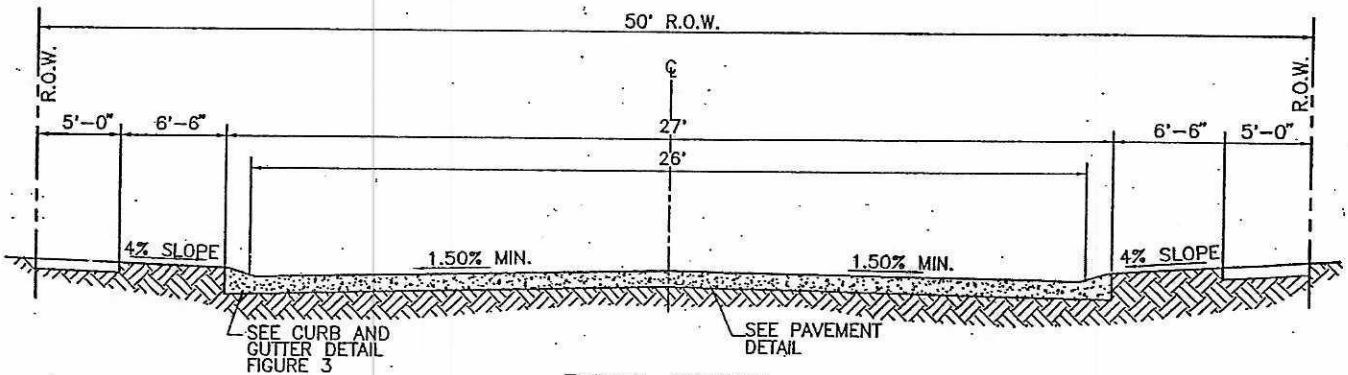
TYPICAL SECTION

RESIDENTIAL COLLECTOR STREET

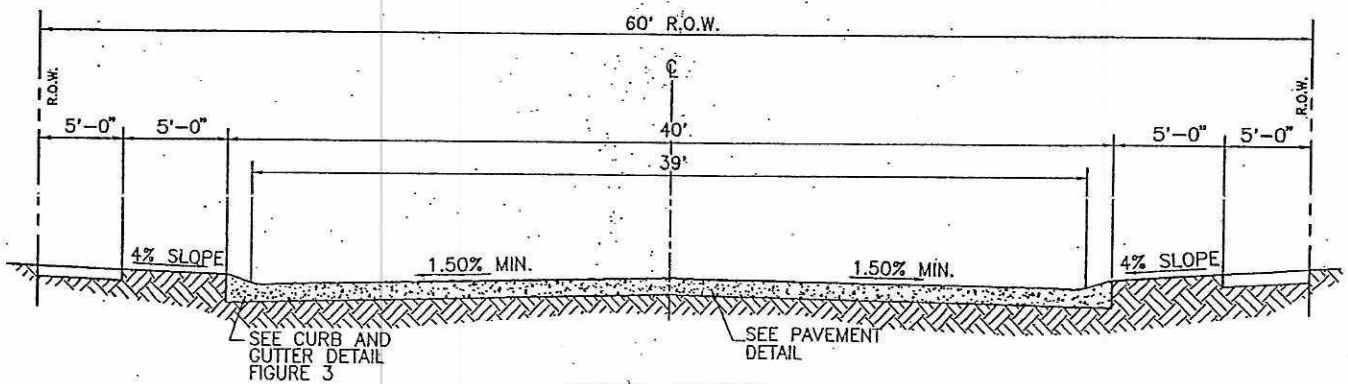
FIGURE 6



TYPICAL SECTION
ARTERIAL STREET



TYPICAL SECTION
COMMERCIAL AND INDUSTRIAL LOCAL STREET



TYPICAL SECTION
COMMERCIAL AND INDUSTRIAL COLLECTOR STREET

TABLE 5-A

STREET DESIGN SPECIFICATIONS

RESIDENTIAL STREETS

<u>Classification</u>	Max. No. of Dwelling Units/ <u>Net Acre</u>	Permitted On-Street <u>Parking</u>	Required R.O.W. <u>(ft.)</u>	Min. Pavement Width ¹ <u>(ft.)</u>	Max. Gradient <u>(%)</u>	Min. Gradient <u>(%)</u>
Marginal Access	To 1.99	None	40	20	6	1.3
Local	2.0-4.50	Both Sides	50	30	6	1.0
Collector	4.50/Greater	Both Sides	50	34	6	1.0
Arterial	Over 250 dwelling units served	None	70	28	6	1.0

COMMERCIAL AND INDUSTRIAL STREETS

<u>Classification</u>	Permitted On-Street <u>Parking</u>	Required R.O.W. <u>(ft.)</u>	Required Pavement <u>Width (ft.)</u>	Max. Gradient <u>(%)</u>	Min. Gradient <u>(%)</u>
Local	None	60	26	10	1.0
	One Side	60	34	10	1.0
	Both Sides	60	42	10	1.0
Collector	None	80	44	8	1.0

¹ If curbs are required, as measured from back to back of curbs.

² Parking lane width, add ten (10) feet.

TABLE 5-B

MINIMUM REQUIREMENTS FOR STRUCTURAL COMPOSITION OF PAVEMENTS

<u>Street Classification</u>	<u>Flexible Pavements</u>	<u>Rigid Pavements¹</u>
MARGINAL LAND ACCESS Residential	8" Cr. St. 1 1/2" Bituminous Concrete Bind. 1 1/2" Bituminous Concrete Surf.	6" P.C.C.
LOCAL Residential	8" Cr. St. 2" Bituminous Concrete Bind. 1 1/2" Bituminous Concrete Surf.	6" P.C.C.
COLLECTOR Residential	8" Cr. St. 3" Bituminous Concrete Base Course 1 1/2" Bituminous Concrete Surf.	7" P.C.C. with Fabric 4" Cr. St.
LOCAL Commercial and Industrial	8" Cr. St. 3" Bituminous Concrete Base Course 2" Bituminous Concrete Surf.	7" P.C.C. with Fabric 4" Cr. St.
COLLECTOR Commercial and Industrial	8" Cr. St. 4" Bituminous Concrete Base Course 1 1/2" Bituminous Concrete Bind. 1 1/2" Bituminous Concrete Surf.	8" P.C.C. with Fabric 4" Cr. St.

¹ Joints in rigid pavement shall be in accordance with IDOT BLR 10-4.

ABBREVIATIONS:

Cr. St.	=	Crushed Stone
P.C.C.	=	Unreinforced Portland Cement Concrete

CHAPTER 35 – TAX INCREMENT FINANCING

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>INTERESTED PARTIES REGISTRY REGISTRATION RULES</i>	
	<i>Section 35-1-1 - Definitions</i>	<i>35-1</i>
	<i>Section 35-1-2 - Establishment of Registry</i>	<i>35-1</i>
	<i>Section 35-1-3 - Maintenance of Registry</i>	<i>35-1</i>
	<i>Section 35-1-4 - Registration by Residents</i>	<i>35-1</i>
	<i>Section 35-1-5 - Registration of Organizations</i>	<i>35-1</i>
	<i>Section 35-1-6 - Determination of Eligibility</i>	<i>35-2</i>
	<i>Section 35-1-7 - Notices and Availability of Information</i>	<i>35-2</i>
	<i>Section 35-1-8 - Renewal and Termination</i>	<i>35-2</i>
	<i>Section 35-1-9 - Amendment to Registration</i>	<i>35-2</i>
	<i>Section 35-1-10 - Registries Available for Public Inspection</i>	<i>35-2</i>
	<i>Section 35-1-11 - Notices to be Sent to Interested Parties</i>	<i>35-2</i>
	<i>Section 35-1-12 - Non-Interference</i>	<i>35-3</i>
	<i>Section 35-1-13 - Amendment of Registration Rules</i>	<i>35-3</i>

CHAPTER 35

TAX INCREMENT FINANCING

ARTICLE I – INTERESTED PARTIES REGISTRY REGISTRATION RULES

35-1-1 **DEFINITIONS.** As used in these Registration Rules, the following terms shall have the definitions set forth below.

(A) **“Act”** shall mean the Tax Increment Allocation Redevelopment Act **65 ILCS Sec. 5/11-74.4-1 et seq.** as amended from time to time.

(B) **“City”** shall mean City of Newton, Jasper County, Illinois.

(C) **“Interested Party(s)”** shall mean (1) any organization(s) active within the City (2) any resident(s) of the City, and (3) any other entity or person otherwise entitled under the Act to register in a specific Registry who has been registered in such Registry and whose registration has not been otherwise terminated in accordance with these Registration Rules.

(D) **“Redevelopment Project Area”** shall mean a redevelopment project area that (1) is intended to qualify (or has subsequently qualified) as a “redevelopment project area” under the Act and (2) is subject to the “interested parties” registry requirements of the Act.

(E) **“Registration Application Form”** shall mean the form appended to these Registration Rules or such revised form as may be approved by the City consistent with the requirements of the Act.

(F) **“Registry” or “Registries”** shall mean each interested parties registry, and all such registries, collectively, established by the City pursuant to Section 11-74.4-4.2 of the Act for the Redevelopment Project Area.

35-1-2 **ESTABLISHMENT OF REGISTRY.** The City shall establish a separate interested parties registry for each Redevelopment Project Area being considered by the City or hereafter established. The City shall establish a new registry whenever it has identified an area for study and possible designation as a Redevelopment Project Area. In any event the process of establishing the new registry must be completed prior to the deadline for sending any of the notices required by **Section 35-1-11** of these rules or any other notices required by the Act with respect to the proposed Redevelopment Project Area.

35-1-3 **MAINTENANCE OF REGISTRY.** The City Clerk or his or her designee shall maintain the Registries. The Registry shall include the name, address, and telephone number of each registered resident; and for registered organizations, the name and phone number of a designated contact person.

35-1-4 **REGISTRATION BY RESIDENTS.** An individual seeking to register as an Interested Party with respect to a Redevelopment Project Area must complete and submit a Registration Application Form to the City Clerk. Such individual must also submit a copy of a current driver’s license, lease, utility bill, financial statement, or such other evidence as may be acceptable to the Clerk to establish the individual’s current residency in the City.

35-1-5 **REGISTRATION BY ORGANIZATIONS.** An organization seeking to register as an Interested Party with respect to a Redevelopment Project Area must complete and submit a Registration Application Form to the City Clerk. Such organization must also submit a copy of a one-page statement describing the organization’s current operations in the City.

35-1-6 **DETERMINATION OF ELIGIBILITY.** All individuals and organizations whose Registration Application Form and supporting documentation complies with these Registration Rules shall be registered in the applicable Registry within **ten (10) business days** of the City Clerk's receipt of all such documents. If the City Clerk determines that an applicant's Registration Application Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the applicant specifying the defect(s). The applicant shall be entitled to correct any defects and resubmit a new Registration Application Form and supporting documentation.

35-1-7 **NOTICES AND AVAILABILITY OF INFORMATION.** Upon registration, Interested Parties shall be entitled to receive all notices required under the Act, including how to obtain information concerning the applicable Redevelopment Project Area. The City reserves the right to charge recipients for the cost of copies and postage/delivery charges for requested documents.

35-1-8 **RENEWAL AND TERMINATION.** An Interested Party's registration shall remain effective for a period of **three (3) years**. At any time after such **three (3) year** period, the City Clerk may provide written notice by regular mail to the Interested Party stating that such registration shall terminate unless the Interested Party renews such registration within **thirty (30) days** of the Clerk's mailing of written notice. To renew such registration, the Interested Party shall, within such **thirty (30) day** period, complete and submit the same Registration Application Form and supporting documentation then required of initial registrants in order to permit the Clerk to confirm such person's residency or such organization's operations in the City. The registration of all individuals and organizations whose Registration Application Form and supporting documentation is submitted in a timely manner and complies with these Regulation Rules shall be renewed for an additional, consecutive **three (3) year** period. If the City Clerk determines that a registrant's renewal Registration Application Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the registrant at the address specified in the renewal Registration Application Form submitted, specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Application Form and supporting documentation within **thirty (30) days** of receipt of the Clerk's notice. If all defects are not corrected within **thirty (30) days** of the Interested Party's receipt of the City Clerk's notice, the Interested Party's registration shall be terminated. Any Interested Party whose registration is terminated shall be entitled to register again as if a first-time applicant.

35-1-9 **AMENDMENT TO REGISTRATION.** An Interested Party may amend its registration by giving written notice to the City Clerk by certified mail for any of the following reasons: (1) a change in address for notice purposes; (2) in the case of organizations, a change in the name of the contact person; and (3) a termination of registration. Upon receipt of such notice, the Clerk shall revise the applicable Registry accordingly.

35-1-10 **REGISTRIES AVAILABLE FOR PUBLIC INSPECTION.** Each Registry shall be available for public inspection during the City's normal business hours.

35-1-11 **NOTICES TO BE SENT TO INTERESTED PARTIES.** Interested Parties shall be sent the following notices as well as any other notices required under the Act with respect to the applicable Redevelopment Project Area:

(A) pursuant to subsection 74-4-5(a) of the Act, notice of the availability of a proposed redevelopment plan and eligibility report, including how to obtain this information, such notice shall be sent by mail within a reasonable period of time after the adoption of the ordinance fixing a time and place for the public hearing for the proposed redevelopment plan;

(B) pursuant to subsection 74-4.5(a) of the Act, notice of changes to a *proposed* redevelopment plans that does not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of or extend the life of the redevelopment project, or (4) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed **ten (10)**. Such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of such changes.

(C) pursuant to subsection 74-4.5(c) of the Act, notice of amendments to a *previously approved* redevelopment plan that does not (1) add additional parcels of property to the redevelopment project area, (2) substantially affect the general land uses in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than **five percent (5%)** after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan, or (6) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed **ten (10)**; such notice shall be sent by mail not later than **ten (10) days** following the City's adoption by ordinance of such amendment.

(D) pursuant to subsection 74-4.5(d)(9) of the Act for redevelopment plans or projects that would result in the displacement of residents from **ten (10)** or more inhabited residential units or that contain **seventy-five (75)** or more inhabited residential units, notice of the availability of the annual report described by subsection 74-4.5(d), including how to obtain the annual report; such notice shall be sent by mail within a reasonable period of time after completion of the certified audit report.

(E) pursuant to subsection 74-4.6(e) of the Act, notice of the public meeting required under the Act for a proposed Redevelopment Project Area that will result in the displacement of **ten (10)** or more inhabited residential units or which will contain **seventy-five (75)** or more inhabited residential units, such notice shall be sent by certified mail not less than **fifteen (15) days** before the date of such public meeting and shall include the information required under subsection 74-4.6(e) of the Act.

35-1-12 **NON-INTERFERENCE.** These Registration Rules shall not be used to prohibit or otherwise interfere with the ability of eligible organizations and individuals to register for receipt of information to which they are entitled under the Act.

35-1-13 **AMENDMENT OF REGISTRATION RULES.** These Registration Rules may be amended by the City subject to and consistent with the requirements of the Act.

(Ord. No. 2008-10; 04-01-08)

CHAPTER 36 - TAXATION

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
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CHAPTER 36

TAXATION

ARTICLE I – GENERALLY

36-1-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the City be and the same is hereby established at a rate of .25%. **(65 ILCS 5/8-3-1)**

36-1-2 **POLICE TAX.** The maximum rate for police protection purposes of the City be and the same is hereby established at a rate of .075%. **65 ILCS 5/11-1-3)**

36-1-3 **AUDIT TAX.** The City Council may levy a "Municipal Auditing Tax" upon all taxable property in the City which will produce an amount which will equal the cost of all auditing for the City. **(See 65 ILCS Sec. 5/8-8-8)**

36-1-4 **F.I.C.A. TAX.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to participate in the federal Social Security System. **(40 ILCS 5/21-101 et seq.)**

36-1-5 **GENERAL LIABILITY.** The City Council may levy a tax upon all taxable property in the City at whatever rate is necessary to purchase general liability insurance for the City.

36-1-6 **WORKMEN'S COMPENSATION.** The maximum tax for Worker's Compensation and Occupational Diseases Claims purposes, be and the same is hereby established at a rate to pay for legal services, purchase insurance, purchase claim services, pay for judgments and settlements. **(745 ILCS 10/9-107)**

36-1-7 **PUBLIC PARKS TAX.** The maximum tax for Public Park purposes, be and the same is hereby established at a rate of .075%. **(65 ILCS 5/11-98-1)**

36-1-8 **STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of .06%. **(65 ILCS 5/11-81-1 and 5/11-81-2)**

ARTICLE II

TAXPAYERS' RIGHTS CODE

36-2-1 **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-2-2 **SCOPE.** The provisions of this Code shall apply to the City's procedures in connection with all of the City's locally imposed and administered taxes.

36-2-3 **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B) **Corporate Authorities.** "Corporate Authorities" means the 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 Newton, Jasper County, Illinois.

(F) **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the City's locally imposed and administered taxes.

(G) **Tax Ordinance.** "Tax Ordinance" means each ordinance adopted by the City that imposes any locally imposed and administered tax.

(H) **Taxpayer.** "Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the City.

36-2-4 **NOTICES.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

(A) First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or

(B) Personal service or delivery.

36-2-5 **LATE PAYMENT.** Any notice, payment, remittance or other filing required to be made to the City pursuant to any tax ordinance shall be considered late unless it is:

(A) physically received by the City on or before the due date, or

(B) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the City, with adequate postage prepaid.

36-2-6 **PAYMENT.** Any payment or remittance received for a tax period shall be applied in the following order:

- (A) first to the tax due for the applicable period;
- (B) second to the interest due for the applicable period; and
- (C) third to the penalty for the applicable period.

36-2-7 **CERTAIN CREDITS AND REFUNDS.**

(A) The City shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) The statute of limitations on a claim for credit or refund shall be **four (4)** or less years after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
 - (a) the name of the locally imposed and administered tax subject to the claim;
 - (b) the tax period for the locally imposed and administered tax subject to the claim;
 - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
 - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
 - (a) grant the claim; or
 - (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **seven percent (7%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

36-2-8 **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

- (A) Each notice of audit shall contain the following information:
- (1) the tax;
 - (2) the time period of the audit; and
 - (3) a brief description of the books and records to be made available for the auditor.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** nor more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the City.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the City. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within **thirty (30) days** of the City's determination of the amount of overpayment.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

36-2-9 **APPEAL.**

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) the reason for the assessment;
- (2) the amount of the tax liability proposed;
- (3) the procedure for appealing the assessment; and
- (4) the obligations of the City during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than **ninety (90) days** after the expiration of the **forty-five (45) day** period.

36-2-10 **HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-2-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

36-2-11 **INTEREST AND PENALTIES.** In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) **Interest.** The City hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **nine percent (9%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

(B) **Late Filing and Payment Penalties.** If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of **five percent (5%)** of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of **five percent (5%)** of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the City issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to **twenty-five percent (25%)** of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

36-2-12 **ABATEMENT.** The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

36-2-13 **INSTALLMENT CONTRACTS.** The City may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

36-2-14 **STATUTE OF LIMITATIONS.** The City, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than **four (4) years** maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the City, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

36-2-15 **VOLUNTARY DISCLOSURE.** For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

36-2-16 **PUBLICATION OF TAX ORDINANCES.** Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the City Clerk's office.

36-2-17 **INTERNAL REVIEW PROCEDURE.** The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

- (A) timely remove the lien at the City's expense;
- (B) correct the taxpayer's credit record; and
- (C) correct any public disclosure of the improperly imposed lien.

36-2-18 **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(50 ILCS 45/1 et seq.)

(Ord. No. 00-19; 12-05-00)

ARTICLE III - TAX ABATEMENT POLICY

36-3-1 TAX ABATEMENT ESTABLISHED. The City shall provide property (real estate) tax abatement for such projects within Jasper County which have been approved for tax abatement by the Joint Tax Abatement Committee, all in accordance with the following provisions:

(A) **Definitions.**

- (1) Aforesaid projects shall be herein defined as those projects where the primary use of the land and building(s) is of, but not limited to, a manufacturing, assembly, wholesale, or warehouse distribution nature, national or regional offices, or such commercial enterprises that are perceived as important to local economic development.
- (2) Aforesaid projects approved for tax abatement by the Joint Tax Abatement Committee meeting this definition are eligible to receive property (real estate) tax abatement as follows for the increased assessment amount which would accrue from expansion, rehabilitation or new construction, for a **five (5) year** period beginning with the tax years in which the new, increased assessment amount would be levied.

<u>Year of Abatement</u>	<u>Amount of Abatement</u>
1	100%
2	100%
3	75%
4	75%
5	50%

- (a) Expansion shall be herein defined as the construction of any part of a building that results in an increase in any exterior dimension to an existing building and has at least **one (1) wall** or floor in common with an existing building.
- (b) Rehabilitation shall be herein defined as the improvement of any part of an existing building that does not result in an increase in any exterior dimension of the building.
- (c) New construction shall be herein defined as the improvement of any tract of land or site with a building where the interior space is encased by **four (4) walls**, none of which are common along any plane or otherwise shared with an existing building.
- (3) During the abatement period property (real estate) taxes levied on the land and building(s) will continue to be paid annually based upon the "pre-project" land and building(s) "base" in accordance with the established equalized assessed valuation and tax rate.
- (4) There is hereby created an **eight (8) person** committee composed of one representative each from the Jasper County Board, Jasper County Unit School District #1 (JCCU #1), Jasper Jobs, Inc. (JJI), Jasper County Chamber of Commerce, City of Newton, Wade Township, Jasper County Extension Service and Wade Fire District, which shall review and approve or deny all applications for tax abatement in Jasper County.
- (5) The City of Newton authorizes and directs the County Clerk to abate ad valorem taxes imposed on real property located within the City of Newton upon which applicable projects have been constructed, or improved, in accordance with this Article and approved for tax abatement by the Joint Tax Abatement Committee.

- (6) Any abatement of ad valorem taxes imposed on real property in Jasper County upon projects where this Article is applicable shall cease immediately when the original applicant quits the premises, or the premises are used for any purpose other than originally stated on their original application. The applicant, or his successor, shall have the right to re-apply for abatement to the applicable body politic.

(Ord. No. 02-15; 09-17-02)

ARTICLE IV

SIMPLIFIED TELECOMMUNICATIONS TAX

36-4-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Amount Paid"** means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(B) **"Department"** means the Illinois Department of Revenue.

(C) **"Gross Charge"** means the amount paid for the act or privilege of originating or receiving telecommunications in such a municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within a municipality that has imposed a tax under this Article and charges for the portion of the inter-office channels provided within that municipality. Charges for that portion of the inter-office channel connecting **two (2)** or more channel termination points, one or more of which is located within the jurisdictional boundary of such municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

(1) any amounts added to a purchaser's bill because of a charge made pursuant to:

- (a) the tax imposed by this Section,
- (b) the tax imposed by the Telecommunications Excise Tax Act,
- (c) the tax imposed by Section 4251 of the Internal Revenue Code,
- (d) 911 surcharges, or
- (e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.

(2) charges for a sent collect telecommunication received outside the City.

(3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement.

(4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges.

(5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.

- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.
- (7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made).
- (8) charges paid by inserting coins in coin-operated telecommunications devices.
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (10) Charges for nontaxable services or telecommunications if:
 - (a) those charges are aggregated with other charges for telecommunications that are taxable,
 - (b) those charges are not separately stated on the customer bill or invoice, and
 - (c) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business.

If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

(D) **"Interstate Telecommunications"** means all telecommunications that either originate or terminate outside this State.

(E) **"Intrastate Telecommunications"** means all telecommunications that originate and terminate within this State.

(F) **"Person"** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.

(G) **"Purchase at Retail"** means the acquisition, consumption or use of telecommunications through a sale at retail.

(H) **"Retailer"** means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

(I) **"Retailer maintaining a place of business in this State"**, or any like term, means and includes any retailer having or maintaining within the State, directly or by a subsidiary, an

office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(J) **"Sale at Retail"** means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(K) **"Service address"** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

(L) **"Taxpayer"** means a person who individually or through his or her agents, employees, or permittees, engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Article.

(M) **"Telecommunications"**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Article, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

36-4-2 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED. A tax is hereby imposed upon any and all of the following acts or privileges:

(A) The act or privilege of originating in the City or receiving in the City intrastate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(B) The act or privilege of originating in the City or receiving in the City interstate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state.

(C) The tax imposed by this Article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the City.

36-4-3 COLLECTION OF TAX BY RETAILERS.

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(B) Whenever possible, the tax authorized by this Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

36-4-4 RETURNS TO DEPARTMENT. Commencing on **February 1, 2003**, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

36-4-5 RESELLERS.

(A) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunications tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(C) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

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CHAPTER 38

UTILITIES

ARTICLE I – WATER AND WASTEWATER TREATMENT RATES

38-1-1 **SEPARATE WATER AND WASTEWATER TREATMENT SYSTEMS.** The existing waterworks system in its entirety, together with all additions, improvements and extensions thereto that may hereafter be made and the existing wastewater treatment system shall be maintained and operated as separate utilities, and charges or rates shall be established for the use of each system, which shall be reasonable and commensurate with the services performed by each system, and shall be sufficient to maintain, operate, provide an adequate depreciation fund and pay the principal and interest of any revenue bonds which may be issued, which by their terms are made payable from the revenues of the waterworks system or the wastewater treatment system. **(Ord. No. 09-19; 12-15-09)**

38-1-2 **SERVICE CHARGES.** Except as established by a council approved contract, there are established charges for the use of and for the services supplied by the water system of the City. Calculations of charges are made by rate tables and based upon the amount of water consumed and shown by City water meters. **(Ord. No. 09-19; 12-15-09)**

In addition to all other charges, there shall be charged to the customer the sum of **Twenty-Five Dollars (\$25.00)** for each customer’s check returned to the City for insufficient funds or other reason. Two or more such returned checks within a **six (6) month** period shall result in the requirement that all future payments to the City from that customer must be in form of either cash, money order or cashier check, unless otherwise authorized by the City Collector. All unpaid returned check charges shall be added to the customer’s account and shall constitute a lien on the customer’s property. **(Ord. No. 15-13; 10-06-15)**

38-1-3 **WATER SERVICE RATES.** Commencing with the first billing after **May 1, 2022**, the following monthly charges shall apply to those customers using water service of the City:

(A) **Water Service - Inside City.**

First	2,000 gallons	\$.00903 per gallon
Next	8,000 gallons	\$.009131 per gallon
Next	10,000 gallons	\$.007524 per gallon
Next	10,000 gallons	\$.00659 per gallon
Over	30,000 gallons	\$.005949 per gallon

The minimum charge for water service shall be **Eighteen Dollars Six Cents (\$18.06)** per month.

(B) **Water Service - Outside City Limits.**

First	2,000 gallons	\$.013548 per gallon
Next	8,000 gallons	\$.013697 per gallon
Next	10,000 gallons	\$.011284 per gallon
Next	10,000 gallons	\$.009884 per gallon
Over	30,000 gallons	\$.008923 per gallon

The minimum charge for water service shall be **Twenty-Seven Dollars Ten Cents (\$27.10)** per month.

Commencing with the first billing for each customer after **May 1, 2022**, and on **May 1st** every year thereafter, the rate tables will be reviewed and may be adjusted by the Mayor and City Council every year or at any time deemed necessary by them.

38-1-4 **WASTEWATER TREATMENT RATES.** Except as established by Council approved contract, there are established rates and charges for use of and for the services supplied by the Wastewater Treatment System of the City; calculations of charges are made by rate tables and based upon the amounts of water consumed by a customer as shown by the City's water meters.

Commencing with the first billing for each customer after **May 1, 2022**, the following monthly charges shall apply to those customers using the wastewater treatment system of the City:

(A) **Wastewater Treatment Service – Inside City.**

First	2,000 gallons	\$.015532 per gallon
Over	2,000 gallons	\$.00591 per gallon

The minimum charge for wastewater treatment service shall be **Thirty-One Dollars Six Cents (\$31.06)** per month.

(B) **Wastewater Treatment Service – Outside City Limits.**

First	2,000 gallons	\$.023303 per gallon
Over	2,000 gallons	\$.008865 per gallon

The minimum charge for wastewater treatment service shall be **Forty-Six Dollars Sixty-One Cents (\$46.61)** per month.

Commencing with the first billing for each customer after **May 1, 2022**, and on **May 1st** every year thereafter, the rate tables will be reviewed and may be adjusted by the Mayor and City Council each year or at any time deemed necessary by them.

38-1-5 **BULK SALES OF WATER.** (Coin metered): Bulk water sold to tank wagons loading water at a location provided by the City shall be charged at the rate of **Eighty Cents (\$0.80)** per **one hundred (100) gallons** or fraction thereof.

38-1-6 **RESERVED.**

38-1-7 **MULTIPLE UNIT RATE.**

(A) Whenever **two (2)** or more residential dwelling units and/or commercial units are served by a single water meter, the bill shall be computed as if each unit were metered separately under the rate schedules listed in this Chapter. The minimum charge shall be computed in a like manner.

(B) Effective **May 1, 2022**, whenever **two (2)** or more residential dwelling units and/or commercial units are served by a single water meter, the following rates shall apply:

WATER – FLAT RATE
\$9.18 per 1000 gallons
Minimum \$9.18

WASTEWATER – FLAT RATE
\$12.24 per 1,000 gallons of metered water
Minimum \$12.24

(C) for **two (2)** or more residential dwelling units and/or commercial units served by single water meter as of **March 15, 2020**, subparagraph (B) shall not apply until such time as said residential dwelling units or commercial units are the subject of a transfer of ownership; and following said transfer of ownership, the rate schedule in subparagraph (B) above shall apply.

(D) Commencing with the first billing for each customer after **May 1, 2022** and on **May 1st** every year thereafter, any changes to the rate tables will be reviewed and may be adjusted by the Mayor and City Council each year or at any time deemed necessary by them.

38-1-8 **BILLING AND PAYMENT OF CHARGES.** Charges for water and sewer services shall be due monthly and payment shall be due monthly on the **first (1st) day** of each month. The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally

liable to pay for the service on such premises and the service is furnished to the premises by the City only upon the condition that the owner of the premises, occupant and user of the service are jointly and severally liable therefore to the City. All bills for service shall be rendered as of the **first (1st) day** of the month following the month for which service is rendered and water meters read. All bills shall be payable by the **fifteenth (15th) day** of the month in which the bill is rendered. All bills not paid shall have a penalty of **five percent (5%)** added on the **sixteenth (16th) day** of said month. When the **fifteenth (15th) day** of any month shall be a Sunday or a legal holiday, then such bills for service shall be paid on the next succeeding secular day without the penalty added.

(A) In the event charges for water and sewer service are not paid on the **fifteenth (15th) day** of the month in which billed, a notice of disconnection shall be mailed to the customer by the City Collector.

(B) Any customer who fails to pay the utility bills within **twenty-four (24) days** of presentation shall have the utility services disconnected after a written notice by the Collector has been mailed by first-class mail to the customer, affording the customer an opportunity for a hearing. The aforesaid notice shall be mailed to the customer **seventeen (17) days** after billing, specifically advising the customer of the following:

- (1) Name and address of the customer and amount due for services including late penalties.
- (2) The date, time, and location of the hearing to be held.
- (3) That the customer has a right to be heard and to present evidence in his behalf if he does not agree with the bill.
- (4) That if the customer fails to appear at the hearing, the consumer's utility service shall be terminated without further proceedings.
- (5) The date of termination.

[See Memphis Light, Gas & Water v. Craft 98 S.Ct 1554 (1978)]

(C) The time, date and location of the hearing shall be determined by the Mayor, the Clerk or the Treasurer. One of these officials shall preside over the hearing and shall make a final determination as to the rights of the consumer and the City based on the information received at the hearing. **(See Appendix #6)**

(D) The customer shall be notified within **five (5) working days** of the decision rendered by the hearing officer. If the service is to be discontinued, a date and time will be set out in the

notice to terminate the service or services of the customer. Notice of the hearing officer's decision shall be made by first-class mail.

(E) If the hearing officer decides in favor of the City, the City shall have the right to discontinue the customer's utility services. Should the customer fail to appear at the hearing, or should the notice be returned non-accepted, then the City shall also have the right to terminate the customer's utility services without further proceedings.

(F) If the customer who has been notified for nonpayment of utility bills is not the owner of record, then the City shall notify the owner of the property by first-class mail.

In the event such delinquent charges are not paid in full to the City Collector by **8:00 A.M.** on the **fourth (4th) day** of the succeeding month, a delinquent fee of **Thirty-Five Dollars (\$35.00)** shall be charged to all accounts with a delinquent balance. Also, a City employee shall be sent to the premises to disconnect such delinquent user from the water and sewer system without further notice.

Once disconnection has been made, no reconnection shall be made until all delinquent charges for water and sewer, and all penalties and delinquent fees have been paid in full to the City Collector, except, however, that if such services have been disconnected for a **third (3rd) time** within a period of **one (1) year**, a delinquent fee of **Seventy-Five Dollars (\$75.00)** will be charged, and in addition, the delinquent fee within the succeeding year shall be **Seventy-Five Dollars (\$75.00)**.

Disconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Thursday, only between **8:00 A.M.** and **12:00 Noon** on Friday, and only between **8:00 A.M.** and **12:00 Noon** when the City offices will be closed the following day. These hours provide the customer the opportunity to make payment and have service reconnected.

Reconnections will be made between **8:00 A.M.** and **3:00 P.M.**, Monday through Friday.

Reconnections made after **3:00 P.M.** or on holidays or weekends will have an additional charge of **One Hundred Two Dollars Fifteen Cents (\$102.15)** to cover the overtime expense. **(Ord. No. 08-8; 03-18-08)**

38-1-9 **LIEN FOR CHARGES.** In the event the charges for service are not paid within **sixty (60) days** after rendition of the bill for such service, such charges shall be deemed and are hereby declared to be delinquent, and thereafter such delinquencies shall constitute liens upon the real estate for which such service is supplied, and the City Collector is hereby authorized and directed to file from time to time as directed by the Council, sworn, detailed statements showing such delinquencies in the office of the Recorder of Deeds of Jasper County and the filing of such statement shall be deemed notice of the lien for payment of the service rendered. **(Ord. No. 08-8; 03-18-08)**

38-1-10 **BILLING FOR CHARGES.** It is hereby made the duty of the City Collector to render bills for service and for rates and charges in connection therewith and to collect all moneys due thereon. If the rates or charges for such service are not paid as provided herein, the City Collector is hereby authorized and directed to notify in writing the owner of the premises, the occupant thereof, and the user of the service that such delinquency exists and that service shall be discontinued without further notice. **(Ord. No. 08-8; 03-18-08)**

38-1-11 **DISPOSITION OF REVENUES.**
 (A) All revenues and monies derived from the operation of the waterworks system and the sewerage system shall be held by the Collector in separate funds for each system, apart from all other funds of the City, and all of the said sums, without any deductions whatever, shall be delivered to the City Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may from time to time be directed by the Council. **(Ord. No. 03-06; 05-06-03)**

(B) The City Treasurer shall receive all revenues from the waterworks system and the sewerage system and all other funds and monies incident to the operation of each system as the same may be delivered to the Treasurer and deposit the same in separate funds of the City of Newton, and the Treasurer shall administer each fund in every respect in the manner provided by Article 9 of the Illinois Municipal Code and all other laws thereunto enabling. **(Sec. 7.06) (Ord. No. 03-06; 05-06-03)**

38-1-12 **RECORDS; AUDIT.** The City Collector 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 separate waterworks system and sewerage system, and at regular annual intervals shall cause to be made an audit by an independent C.P.A. auditing concern of the books to show the receipts and disbursements of the separate waterworks system and sewerage system. **(Sec. 7.07) (Ord. No. 03-06; 05-06-03)**

38-1-13 **SEPARATE METERED CONNECTIONS REQUIRED.** No free service of the separate waterworks system and sewerage system of the City of Newton shall be furnished to any person, firm, organization or corporation, public or private, unless the Council may direct otherwise. Every user of the separate waterworks system and sewerage system of the City shall have a metered water connection to said system, according to rules and regulations set forth by the Council. A user who has an existing metered connection to the water system and sewerage system of the City may at the user's own expense install a separate water meter for water use only, for which separate meter no sewer system charge shall be made as long as that metered water does not utilize the sewer system of the City. **(Ord. No. 03-06; 05-06-03)**

38-1-14 **CONNECTION PERMITS; FEES.**

(A) The City Clerk is hereby authorized to grant such permits as the Clerk may deem proper, allowing persons to connect to the waterworks system and the sewerage system. The applicant shall pay for the material (which may include but not limited to, piping, fittings, the meter, backfill material, and/or boring under roads) required for installing the water service from the main to the premises in the manner prescribed by the City. The permit fee for the connection to the sewerage main shall be **Two Hundred Fifty Dollars (\$250.00)** refundable deposit, refundable upon inspection of completed project of the sewer connection. The City will provide the sewer connection fitting. This shall be installed by a licensed plumber in the manner prescribed by the City. The applicant shall have a licensed plumber install the sewer service from the main to the residence or premises in the manner prescribed by the City. The permit fees described above shall be paid into the waterworks fund or sewer fund. A connection (tapping) fee shall not be charged if the owner uses an existing connection to the water or sewer main. A connection (tapping) fee/deposit shall only be assessed when a new connection is being made. **(Ord. No. 22-03; 03-01-22)**

(B) No connection shall be made with the separate waterworks or sewerage system without the written permission of the City Clerk. No connection shall be made to any City owned waterworks main extension or sewage main extension without the written permission of the City Clerk. Any connection or opening made with the waterworks system or the sewerage system without such permission or in any manner different from the mode prescribed for such opening or connection shall subject the maker to the penalties provided for violation of this Chapter. **(Sec. 7.09) (Ord. No. 03-06; 05-06-03)**

(C) The water connection charges for the Liberty Avenue extension are found in **Exhibit "A"** at the conclusion of this Chapter. **(Ord. No. 04-10; 10-19-04)**

38-1-15 **APARTMENT BUILDINGS; METERS.**

(A) When water service is furnished through less than the required number of meters to existing apartment buildings or a combination of existing buildings including business buildings, dwellings, apartment buildings, mobile homes not in state approved mobile home courts, and all other existing buildings under the same ownership, the water charges shall be determined by multiplying the minimum water rate by the number of meters on buildings being served with water.

(B) Apartment buildings constructed after **October 9, 1969** shall have separate outside water and electric meters for each apartment.

The word, "construction", for purposes of this Section, is defined to mean the building or erection of a new apartment building structure; or the altering, remodeling or revision of an existing structure which changes a single-family dwelling to a multi-family dwelling.

(C) All meters now in series shall be put on parallel service.

(D) All new construction considered to be a main building and not adjoining any building or buildings will have separate water meters outside.

- (E) The sharing of meters between **two (2)** property owners shall not be permitted.
- (F) All waterline connections shall be staked with a minimum of four (4) inch channel iron **five (5) feet** long at each water valve and tee and shall be inspected by the Water Department employees before they are covered over. **(Ord. No. 96-19; 10-15-96)**
- (G) Any person violating any provision of this Section shall be given **sixty (60) days** written notice of such violation and the opportunity for that period of time to eliminate such violation. Thereafter any such person violating this Section shall be fined not less than **Five Dollars (\$5.00)** per day for each day during or on which a violation occurs or continues.

38-1-16 **MANUFACTURED HOMES.** The owners or occupants of manufactured homes or mobile homes within the City are required to install water meters and make connections to the City water system for each manufactured home or mobile home immediately upon the same becoming a place of residence or being occupied for any purpose.

In addition to the requirements of this Section, said owners or occupants shall comply with all existing regulations governing the use and operation of the City water system.

Any person violating the provisions of this Section shall be denied the use of City water.

Any water line shut-off shall be located inside the mobile home during new construction or remodeling.

38-1-17 **RESIDENTIAL SERVICE DEPOSIT.** Any person, firm or corporation, whether as owner or as tenant, who applies after **March 18, 2008** for water and/or sewer service for residential purposes, shall pay to and maintain with the City Collector a service deposit as advance security for the payment of charges for service furnished. The deposit amount shall be **Three Hundred Fifty Dollars (\$350.00)** for a current City customer with a fair payment history or a new customer with a fair credit rating. Upon transfer of a deposit, the deposit amount shall be **Five Hundred Dollars (\$500.00)** for a current City customer with a poor payment record or a poor credit rating. The deposit amount shall be **Five Hundred Dollars (\$500.00)** for a new customer with a poor credit rating. After **one (1) full year** of service history without a disconnection notice **Two Hundred Dollars (\$200.00)** of the **Three Hundred Fifty Dollar (\$350.00)** or the **Five Hundred Dollar (\$500.00)** original deposit shall be credited to the property owner's current bill as a refund. To receive the **Two Hundred Dollars (\$200.00)** credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. After **two (2) full years** of service history without a disconnection notice **One Hundred Fifty Dollars (\$150.00)** of the original **Five Hundred Dollar (\$500.00)** deposit shall be credited to the property owner's current bill as a refund upon the owner's request to the City Collector. Upon termination of services, the remaining property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a residential customer's total deposit for water and/or sewer service shall not exceed **Five Hundred Dollars (\$500.00)**. **(Ord. No. 08-8; 03-18-08)**

38-1-18 **COMMERCIAL SERVICE DEPOSIT.** Any person, firm or corporation, whether as owner, or as tenant, who applies after **November 20, 2001** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for such electricity, water and sewer services, whichever is greater. The average commercial consumption and billing expected to be used shall be determined by proper employees of the electric, water and sewer departments of the City. Such deposit is an advance security for the payment of charges for services furnished. After **one (1) full year** of service history without a disconnection notice any amount of the original owner's deposit exceeding the average monthly charge for electricity, water and sewer services

shall be credited to the property owner's current bill as a refund. To receive credit, proof of ownership (a copy of the recorded deed) shall be provided to the City Collector. Upon termination of services, the remainder of the property owner's deposit shall be applied to the property owner's final bill and the excess if any shall be refunded to the property owner. Upon termination of a tenant's services, the tenant's original deposit shall be applied to the tenant's final bill and the excess if any shall be refunded to the tenant.

Notwithstanding the foregoing, a commercial customer's total deposit for electricity, water and/or sewer service shall not exceed **Three Hundred Fifty Dollars (\$350.00)** or a sum determined to be equal to the average monthly charge for electricity, water and sewer service, whichever is greater.

Landlords of Unoccupied Rental Property. In lieu of a cash utility deposit of **Three Hundred Fifty Dollars (\$350.00)** or **Five Hundred Dollars (\$500.00)** an owner of an unoccupied rental property/unit, the utilities for which have been placed in owner's name, shall pay to and maintain with the City Collector a service deposit of **Fifty Dollars (\$50.00)**, **One Hundred Seventy-Five Dollars (\$175.00)** or **Three Hundred Fifty Dollars (\$350.00)**, the amount to be determined by the owner's current payment history or a current credit rating. The deposit for a good credit rating shall be **Fifty Dollars (\$50.00)**, a fair credit rating shall be **One Hundred Seventy-Five Dollars (\$175.00)** and a poor credit rating shall be **Three Hundred Fifty Dollars (\$350.00)**. Upon rental/occupancy of the property/unit a cash deposit shall be required in accordance with present Ordinance, irrespective of whether the utilities remain in the owner's name or are placed in the renter's name.

Industrial. Any person, firm or corporation, whether as owner, or as tenant, who applies after **March 18, 2008** for electric service, water and/or sewer service shall pay to and maintain with the City Collector a service deposit of **Three Hundred Fifty Dollars (\$350.00)**. Such deposit is an advance security for the payment of charges for services furnished. Upon termination of service, the original deposit shall be applied to the final bill and the excess if any shall be refunded to the customer. To be eligible for the **Three Hundred Fifty Dollar (\$350.00)** Industrial Rate deposit, the customer must create **ten (10)** or more new jobs within the first year of their doing business in the City and retain those jobs for a minimum of **five (5) years**. The Industrial Rate deposit amount of **Three Hundred Fifty Dollars (\$350.00)** shall terminate automatically if the new employer (a) fails to create **ten (10)** or more full time jobs in the City within the first year or (b) fails to retain those **ten (10)** or more jobs for a minimum of **five (5) years**, at which time the Commercial Deposit policy shall be enforced. **(Ord. No. 08-8; 03-18-08)**

38-1-19 **UNOCCUPIED RENTAL PROPERTY.** In lieu of cash utility deposit(s) an owner of an unoccupied rental property/unit, the utilities for which have been placed in owner's name, may provide in favor of the City an Irrevocable Letter of Credit from a financial institution in a form suitable to the City and in an amount determined by multiplying the number of rental properties/units owned by the amount of the required utility deposit. Upon rental/occupancy of the property/unit a cash deposit shall be required in accordance with present Ordinance, irrespective of whether the utilities remain in the owner's name or are placed in the renter's name. The Irrevocable Letter of Credit shall be deposited with and retained by the City Clerk. **(Ord. No. 02-02; 01-02-02)**

38-1-20 **PLASTIC WATER PIPE.** It shall be lawful for any person, including the City, making connections with the municipal water line to install in addition to copper lines or other heretofore approved pipe, the following polyethylene plastic pipe:

- (A) **three-fourths (3/4)** size -- OD .875 -- maximum PSI 160;
- (B) **one (1) inch** size -- OD 1.125 -- maximum PSI 160;
- (C) Pipe larger than **one (1) inch** PVC -- Schedule 26 plastic pipe or better.

38-1-21 **REGULATIONS.** The City Council is authorized to make such rules and regulations consistent with this Chapter for the connections to the waterworks and sewerage system, specifying the types and sizes of pipes and all other appurtenances and extensions thereto, and amend the same from time to time as may be deemed necessary. All service pipes and connections to the waterworks and sewerage systems shall comply with the said specifications and rules.

38-1-22 **ENTRY FOR INSPECTION.** Employees of the waterworks and sewerage system shall have the right at all times of access to any person's premises for repairs or meter readings. Any person refusing the right to permit the said employees of the waterworks and sewerage system the above described right of access to his premises shall be subject to a penalty as hereinafter provided.

38-1-23 **FILING OF REGULATIONS.** A copy of this Chapter, properly certified by the City Clerk, shall be filed in the office of the Recorder of Deeds of Jasper County and shall be deemed notice to all owners of real estate of their liability for service supplied to any user of the service of the waterworks and sewerage systems of the City on their properties, and it shall be the duty of the City Clerk and such other officer of this City to take all action necessary or required by the laws of the State of Illinois thereunto enabling to file all claims for money due to the City and to prosecute and enforce such claims in the manner, form and time as permitted by the laws of the State of Illinois.

38-1-24 **EXCEPTIONS TO DISCONNECTION OF SERVICE.**

(A) Anyone with a serious illness necessitating the need for continuation of water and/or sewer service who is living full time at a residence scheduled for disconnection of service may contact a duly licensed physician. If the City Clerk receives, prior to disconnection of service, a written confirmation of the illness from a duly licensed physician, the water and/or sewer service shall not be disconnected for a period of **thirty (30) days** from the day the written confirmation is received by the City Clerk if the customer complies with both of the following conditions, to-wit:

- (1) The duly licensed physician's statement must include the name, address and telephone number of the ill person; verification that the ill person is a full-time resident of the premises; the nature and duration of the illness verifying that termination of the water and/or sewer service in question will create a life-threatening situation; and the business name and telephone number of the certifying physician.
- (2) The customer must make full payment of all delinquent water and/or sewer service charges and all penalties within **thirty (30) days** after the City Clerk's receipt of the said physician's written confirmation otherwise, the water and/or sewer service shall be disconnected on or after the **thirty-first (31st) day** after the Clerk's receipt of the said written physician's confirmation.
- (3) The City reserves the right to verify any and all information concerning a customer's illness.

(B) Any person receiving a disconnection notice who believes there has been an error in billing, malfunction of metering equipment or other just cause, may request a hearing before the City Council. A request for hearing by the customer must be submitted in writing to the City Clerk before disconnection has occurred. The hearing will take place within **fifteen (15) days** of the receipt of the customer's request for hearing. A decision will be rendered following the hearing. Until the hearing has been held and decision rendered, the customer's service will not be disconnected. Should the City Council's decision after the hearing be to disconnect the water and/or sewer service, the customer will be so notified by written notice not less than **seven (7) days** prior to disconnection of service. **(Ord. No. 01-25; 11-20-01)**

38-1-25 **WATER LEAK ADJUSTMENT.** When a customer of the Water and/or Sewer Service of the City shall suffer a water leak, the City shall adjust that customer's water and/or sewer bill for the month in which the leak occurs as follows: The preceding **six (6) month** average of the customer's water usage shall first be determined, that amount shall be subtracted from the total amount of gallons metered during the month of the leak. The balance shall constitute the leaked gallons. The customer shall pay the customer's average monthly usage as determined plus **fifty percent (50%)** of the leaked gallons. Charges for sewer in the month of the water leak shall be adjusted in the same manner if the water went down the sewer. If the water did not go down the sewer, the sewer charge

shall be calculated for the customer's **six (6) month** average and the sewer charges above the average removed. There shall be no adjustment for filling of pools, except in the case of new construction or liner replacement of pools requiring **five thousand (5,000) gallons** or more of water in which case the City will only charge for the water used to fill the pool (based on the pools' water capacity) and will not charge for sewer on the water so used.

The water/sewer leak adjustment policy shall commence as of **March 1, 2016**. This adjustment shall only occur **one (1)** time per customer, regardless of the customer's location. **(Ord. No. 16-02; 07-05-16)**

38-1-26 **JETTER TRUCK SERVICE LINE CLEANING FEES.** There is hereby established the following fees on a calendar year basis for use of the City's Jetter Truck Service Line Cleaning services, as follows:

- (A) First time out **One Hundred Fifty Dollars (\$150.00)** and **Three Hundred Dollars (\$300.00)** on weekends, holidays, or after normal business hours.
- (B) Second time out **Three Hundred Dollars (\$300.00)** and **Four Hundred Fifty Dollars (\$450.00)** on weekends, holidays, or after normal business hours.
- (C) Third time out **Four Hundred Fifty Dollars (\$450.00)** and **Six Hundred Dollars (\$600.00)** on weekends, holidays, or after normal business hours.
- (D) Fourth time out **Six Hundred Dollars (\$600.00)** and **Seven Hundred Fifty Dollars (\$750.00)** on weekends, holidays, or after normal business hours.
- (E) Fifth time, the City will not respond with the Jetter Truck.

(Ord. No. 14-15; 09-16-14)

ARTICLE II - WATER SYSTEM

DIVISION I - GENERAL REGULATIONS

- 38-2-1** **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:
- (A) **Federal Government.**
- (1) ***"Federal Act"*** means the federal 1996 Safe Drinking Water Acts Amendments.
 - (2) ***"Administrator"*** means the Administrator of the U.S. Environmental Protection Agency.
- (B) **State Government.**
- (1) ***"State Act"*** means the Illinois Anti-Pollution Bond Act of 1970.
 - (2) ***"Director"*** means the Director of the Illinois Environmental Protection Agency.
 - (3) ***"State Loan"*** shall mean the State of Illinois participation in the financing of the construction of water works as provided for by the Illinois Anti-Pollution Bond Act and for making such loans as filed with the Secretary of State of the State of Illinois.
- (C) **Local Government.**
- (1) ***"Approving Authority"*** means the City Council of the City of Newton or where such authority is specifically delegated, the Superintendent of the Water and Sewer Department.
- (D) ***"Person"*** shall mean any and all persons, natural or artificial, including any individual, firm or company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.
- (E) **Clarification of Word Usage.** ***"Shall"*** is mandatory; ***"may"*** is permissible.
- (F) **Water and Its Characteristics.**
- (1) ***"ppm"*** shall mean parts per million by weight.
 - (2) ***"milligrams per liter"*** shall mean a unit of the concentration of water constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water analysis.
 - (3) ***"PH"*** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.
- (G)
- (1) ***"Curb Cock"*** shall mean a shutoff valve attached to a water service pipe from a water main to a building installed near the curb, which may be operated by a valve key to start or stop flow in the water-supply lines of a building. Also called a curb stop.
 - (2) ***"Easement"*** shall mean an acquired legal right for the specific use of land owned by others.
 - (3) ***"Service Box"*** shall mean a valve box used with corporation or curb cock.
- (H) **Types of Charges.**
- (1) ***"Water Service Charge"*** shall be the charge per quarter or month levied on all users of the Water Facilities. The service charge shall be computed as outlined in this Article, and shall consist of the total of the Basic User Charge and the Local Capital Cost if applicable.
 - (2) ***"User Charge"*** shall mean a charge levied on users of water works for the cost of operation, maintenance and replacement.
 - (3) ***"Basic User Charge"*** shall mean the basic assessment levied on all users of the public water system.

- (4) ***“Debt Service Charge”*** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.
- (5) ***“Capital Improvement Charge”*** shall mean a charge levied on users to improve, extend or reconstruct the water works.
- (6) ***“Local Capital Cost Charge”*** shall mean charges for costs other than the operation, maintenance and replacement costs, i.e. debt service and capital improvement costs.
- (7) ***“Replacement”*** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.
- (8) ***“Useful Life”*** shall mean the estimated period during which the water works will be operated.
- (9) ***“Water and Sewer Fund”*** is the principal accounting designation for all revenues received in the operation of the water system.

38-2-2 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM. An applicant desiring a water tap or service connection with the Waterworks System of the City shall file a written application at the City Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application. **(See Appendix #1)**

38-2-3 ALL SERVICE TO BE BY METER. All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Water and Sewer Committee. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

38-2-4 REMOVAL OF METERS. All meters shall remain the property of the department and may be removed from the customer’s premises at any time without notice for the purpose of testing and repairing the same or upon discontinuance of service. Upon discovery of any unlawful act by any customer, his agent, or employee herein prohibited or upon failure to comply with any other rules and regulations of the department, such service shall be disconnected.

38-2-5 INSTALLING AND MAINTAINING SERVICE LINES. The user shall be responsible for installation and maintenance of service lines between the meter and the residence or business. Such service lines must be at least **three-fourths (3/4) inch** in diameter, and must be installed at a minimum depth of **three (3) feet**. Service lines must have a minimum working pressure rating of **160 psi at 73.4 degrees F** and must be constructed of one of the following types of materials: Copper, (Type K), polyvinyl chloride (PVC), polyethylene or polybutylene. Service lines shall not be covered until they are inspected and approved by the Superintendent.

The user shall not connect any service line or any plumbing connected with the service line to any other water source. The service line shall meet all requirements of the Illinois Environmental Protection Agency’s rules and regulations, the Illinois Plumbing Code, and the regulations in this Chapter.

38-2-6 INSPECTION.

(A) **Access to Premises.** The City shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus in any manner connected to the Waterworks System of the City. The City shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would in any manner affect the water supply or system of the City or the supply or fixtures of other consumers.

(B) **Meters to be Open to Inspection.** All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the City shall be open to the inspection of the proper officers and employees of the City at all reasonable hours.

38-2-7 METER DAMAGED. Whenever a meter is found to have been damaged by hot water being forced back into it from the consumer's hot water or heating apparatus or for any other cause within control of the consumer, the consumer shall pay the City for the actual cost of the removal, repair, and replacement of the damaged meter and all previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order for such damage.

38-2-8 DAMAGE DUE TO INTERRUPTION OF SERVICE; LIABILITY. All connections for the water services applied for hereunder and all connections now attached to the present City Waterworks System and all use or service of the system shall be upon the express condition that the City shall not be liable for nor shall any claim be made against it for damages or injury caused by reason of the breaking of any main, service, pipe, apparatus or appurtenance connected with the Waterworks System or for any interruption of the supply of water by reason of the breaking of machinery or by reason of stoppages, alterations, extensions or renewals.

38-2-9 RESALE OF WATER. No water supplied by the waterworks system shall be resold by any user. No water user may supply water to other families or allow them to take it, except for use on the premises and for the purpose specified in such user's approved application, nor after water is introduced into any building or upon any premises shall any person make or employ any other person to make any tap or connection with work upon the premises for alterations, repairs, extension or attachments without written permit therefore. Resale or unauthorized use of water shall be grounds for discontinuance of water service to the user, or the premises, or both.

38-2-10 DISCONTINUING SERVICE - DANGEROUS USAGE. The City shall have the right to refuse water service or to discontinue water service, without notice, at any time to any consumer if the City finds any apparatus or appliances, the operation of which will be detrimental to the water system of the City or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that cause water hammer or any danger to the water system or other customer's plumbing shall be immediately repaired or removed upon notice from the City, or, at its option, the City may immediately discontinue service without notice and without any liability for direct or resulting damages therefrom.

38-2-11 ELECTRIC GROUND WIRES. All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be connected to any water service pipe, water meter, or water main belonging to the City.

The City shall hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the City caused by such ground wire. Any and all owners and consumers shall remove any existing ground wires immediately upon written notice from the City. If not so disconnected **five (5) days** after notice, the City, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

38-2-12 **WATER FOR BUILDING OR CONSTRUCTION PURPOSES.** Applicants desiring to use water from the City Waterworks System for building or construction purposes shall make application therefor to the Superintendent on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent.

38-2-13 **FIRE HYDRANTS.**

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the City Limits, shall be owned, maintained and used only by the City and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the City and after approved application to the City.

(B) The City shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the City Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the City Limits owned by the City shall be maintained in as good order as reasonably possible, but the City will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the City may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

38-2-14 **LIMITED WATER USAGE IN EMERGENCIES.**

(A) The Mayor is hereby authorized to proclaim the existence of an emergency whenever it appears that the City water supply is inadequate for all general uses and purposes, which proclamation shall be published in a newspaper of general circulation in the community and the Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the publication of a proclamation as provided for in subsection (A) of this Section, the following uses of water shall be prohibited:

- (1) the washing of cars and other vehicles;
- (2) the sprinkling of lawns and shrubbery;
- (3) the watering of gardens;
- (4) other nonessential uses;

and it shall be unlawful for any person to so use water from the City supply during such an emergency.

38-2-15 **SHORTAGE AND PURITY OF SUPPLY.** The City shall not be held responsible for or in any manner liable to any person, company, consumer or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shutoff of water for any reason, any bursting or leakage of either the consumer's or City's mains, pipes and fixtures, any pollution or impurity in water supply or any fire or water damage.

38-2-16 **NON-COMPLIANCE WITH RULES AND REGULATIONS.** If any consumer fails to comply with any of the rules and regulations in force, the City shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time,

the City shall have the right to discontinue service. Except in case of non-payment, emergency, necessity, or as otherwise provided, the City will not discontinue service for violation of any rule until **five (5) days** after notice has been given and the violation has not been remedied.

38-2-17 **EASEMENTS.** The consumer shall give such easements and rights-of-way as necessary to the City and allow access for the purpose of construction, repair, maintenance, meter reading, relocation or expansion of the water system. The necessity shall be determined by the Superintendent.

38-2-18 **USE OF WATER ON CONSUMER'S PREMISES.** The City shall reserve the right to use the water from the consumer's facilities at any time deemed necessary. No charge shall be made by the consumer for the use of the facilities and no charge shall be made by the City for the water used by the City.

38-2-19 **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.

38-2-20 **CITY NOT LIABLE FOR INTERRUPTION OF SUPPLY.** The City shall have the right to shut off the supply of water whenever it is necessary to make repairs, improvements, enforce rules or for any notice as circumstances allow, will be given to consumers but in emergencies, the water may be shut off without notice. All hot water faucets shall be left open during any shut-off to prevent damage to plumbing. Such necessary work will be done as rapidly as may be practical and whenever feasible at such times as will cause the least inconvenience. The City shall not be held responsible for or liable because of any shut-off of supply for any direct or resultant damages to any person, company or consumer or to any pipe, fixtures, or plumbing.

Water for steam boilers, gas engines, ice plants, or other industrial use, shall not be furnished by direct pressure from the mains, but only to tanks holding ample reserve supply. Should any equipment be supplied direct from mains, then in case of any shutoff of water, the City will not be held responsible or liable for any direct or resulting damage because of interrupted supply, insufficient pressure, or otherwise.

Whenever water mains, pipes and service connections are taken up, shut-off or interfered with by reason of any City street improvements, the City will endeavor to maintain service so far as reasonably possible, but will not be directly or indirectly liable for any interruption, poor pressure, or damage of any kind either to consumers, adjacent or to other consumers affected thereby.

38-2-21 **WATER WELL PERMITS REQUIRED.** It shall be unlawful to drill a water-well in the City without the proper permits from the State of Illinois and the City Council. All wells shall comply with the Cross-Connection Code in this Chapter. No wells shall be drilled when the property is within **two hundred (200) feet** of the municipal water main.

38-2-22 **ABANDONED CONNECTION.** Whenever any connection to the waterworks system is abandoned, because the building to which the water connection is made has been abandoned, destroyed or removed, the Superintendent may remove the meter and any pipe or connections in the public right-of-way or easement, and cap, plug or otherwise seal the pipe or main. Before taking any such steps the Superintendent shall notify the owner of the real estate if the owner's name and address is

known, and shall notify the person shown on the real estate tax records as having paid taxes on the property the last time taxes were paid. Such notice shall be made by mail, at least **thirty (30) days** before any action is taken under this Section. If water is leaking, the Superintendent shall take immediate action, and send the notices within **three (3) working days** of the time action was taken.

38-2-23 **ALTERNATIVE WATER SOURCE.** Any customer with critical water requirements shall have an alternate water source. Failure to provide such shall be considered a violation of customer rules and loss or damages resulting therefrom shall be the responsibility of the customer. Those customers shall include but not be limited to manufacturers, hospitals, nursing homes, schools, greenhouses, hatcheries or any other building or business which might suffer any type of loss due to interruption of water service.

The City expressly stipulates with all customers and other persons who may be affected by the discontinuance of service that it will neither insure nor be responsible or liable in any manner for any loss or damages, direct or indirect, by reason of fire or any other cause and all water service furnished shall also be conditional upon acts of God, inevitable accidents, failure of supply, fire, strikes, riots or any other causes.

38-2-24 **RULES TO BECOME PART OF CONTRACT.** All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the City, subject thereto and bound thereby.

38-2-25 - 38-2-30 **RESERVED.**

ARTICLE III - UTILITY EXTENSIONS

38-3-1 **APPLICATION FOR SERVICE OUTSIDE THE CITY.** Any person desiring water service outside the corporate limits shall apply in writing to the City Clerk. any such application shall be referred to the City Council for action at its next regular meeting.

38-3-2 **EXTENSION OF SERVICE OUTSIDE THE CITY.** No utility services shall be extended to new users or customers outside the corporate limits of the City except by affirmative vote of the majority of the members of the City Council then elected. No application may be considered for approval unless the applicant shall first have agreed in writing to enter into a binding agreement with the City as follows:

(A) The property for which service is sought will be annexed to the City of Newton by petition of the owner if and when such property becomes contiguous to the City, or the property qualifies for annexation to the City pursuant to the State Statutes now in effect or later amended; and

(B) All sewage disposal systems shall be installed at the expense of the owners, and shall meet Federal and State EPA regulations and be State of Illinois approved. If, at some future date, it becomes necessary, either by Federal or State regulation, to install a sewage disposal system different from those systems presently approved, it shall be the duty of the owners, at their expense, to install said sewage disposal system to meet any and all Federal and/or State requirements. Further, at the time the property becomes annexed to the City, the property owners shall comply with the City Code, including the Sewer Use Code, Chapter 38; Article V, as amended. There is presently no duty imposed on the City, nor is there a duty imposed by virtue of this Chapter, requiring the City to provide public sewer connections to the said property owners. In the event the property owners elect to connect, or is required by Federal or State EPA rules to connect to the City sewer system, the cost of such connection to within **two hundred (200) feet** of the then existing nearest public sewer connection, shall be the sole expense of the property owner. The City shall have no duty or responsibility to extend any existing sewer connection line to any property.

38-3-3 **AGREEMENT TO ANNEX.** Upon approval of any application for service outside the corporate limits of the City, as provided in this Chapter, such application shall be referred by the Council to the City Attorney. The City Attorney shall draft a suitable agreement to be entered into be the City and the applicant. In addition to the requirements of **Section 38-2-2**, such agreement shall provide that its terms are binding upon the applicant and any future owners of such property and shall constitute an encumbrance upon the property which is a covenant running with the land.

38-3-4 **RECORDING OF AGREEMENT.** Any agreement for extension of water service outside the corporate limits of the City, shall be signed by all owners of record of such property and by the Mayor, shall be attested by the City Clerk and shall be acknowledged by all parties. After the agreement has been signed and acknowledged as provided, the City Clerk shall cause said agreement to be recorded in the records of Jasper County.

38-3-5 **REGULATIONS CONCERNING CONNECTIONS AND EXTENSIONS.**

(A) Such approved applicants shall pay all construction costs, legal costs, and engineering costs necessary for the construction of any extended water line and/or extended water main.

(B) Upon construction of such water line, the same shall become the property of the City of Newton, Jasper County, Illinois, upon its inspection and acceptance as herein provided.

(C) No such construction shall be commenced without first obtaining prior approval for such project as herein specified.

(D) Upon completion of such water line, the City shall test and approve the said line which must likewise meet all requirements of the State of Illinois and the United States of America and the appropriate regulatory authorities and agencies of such government.

(E) After the water line has been tested and approved, the applicants and builders of such line shall apply to the City for final acceptance of the extension or connection, and at such time shall provide the City with an itemized bill reflecting the actual total cost of installation. The bill shall include the following:

- (1) Total material cost itemized in cost per foot of pipe.
- (2) Total labor cost itemized in cost per man-hours worked.
- (3) Total equipment cost itemized in rental or owner cost per hour including fuel.
- (4) Total engineering cost verified by a bill from the engineering firm.
- (5) Total legal costs verified by a bill from the Attorney.

(F) Applicants shall be entitled to charge a pro-rated tap-on fee to recover their total installation cost, which shall be set at the time of the final application to the City for its acceptance. Applicants shall have a period of **twenty (20) years** in which to recover their total installation costs. Any cost not recovered within the said **twenty (20) year** period of time shall become the expense of the applicants. In the event the total cost shall be recovered in less than **twenty (20) years**, the pro-rated tap-on fee shall terminate and only the tap fee then required by the City shall be charged.

(G) All tap fees shall be collected by the City. The tap fees shall include the tap fee charged by the City and the pro-rated tap-on fee charged by the applicants. Only the pro-rated tap-on fee shall be credited to the recovery of the applicant's total installation cost.

(H) The City reserves the right to specify oversized pipe at designated locations, but agrees to pay the difference in material cost and any other cost between the oversized pipe and the standard size pipe. From and after **October 1, 1996**, all water line extensions shall have a minimum diameter of **six (6) inches. (Ord. No. 96-18; 10-01-96)**

(I) Taps to the extensions or connections shall only be permitted at intervals of **one hundred (100) feet** or more.

(J) In the event of a further extension to the project approved, the original constructors shall be entitled to **one (1) tap fee** only, but shall not recover any tap fees from more than **one (1) extension** of such project.

(K) Prior to commencing construction, it shall be the responsibility of such applicants to obtain any required State permits or any other required easements, at their own expense, and such plans for the extension or connection shall meet the approval of the City engineers for the City of Newton.

(L) The applicants shall likewise grant to the City such easements as shall be required by the City, to permit the City to enter upon the premises for the purpose of maintaining, repairing, and altering such extension or connection and to install and read and maintain such water meters as shall from time to time be required. All such easements shall be prepared at the expense of applicants. Such easements shall likewise permit entering upon such property for the purpose of constructing further extensions or connections.

(M) No extension or connection outside of the City limits shall be further extended without the prior approval of the City.

(N) Nothing herein contained shall obligate the City to become a guarantor of a supply of water, and in the event of equipment failure, drought, natural disaster, act of God, or conditions beyond the control of the City, the City shall not be liable for any damages sustained as a result of interruption in the supply of water.

(O) Only the original constructors shall share in the division of any tap fees but such original constructors may assign their rights under such agreement as they shall from time to time agree. Such fees may be divided among such persons as they shall agree.

(P) After acceptance of such water line, the City shall maintain the water line from such date at its own expense and shall keep it in proper working condition so as to provide water service to the property owners on the same availability basis as provided to residents of the City.

(Q) The City reserves the right to adjust or alter the charge for such water supply as it shall from time to time determine to be necessary.

(R) Any property owners or users connecting to the extension or connection shall be subject to all the aforementioned rules and regulations and any further rules or regulations adopted by the City concerning said extension or connection. In addition, such users shall be subject to all rules and regulations established for water users located inside the City limits, except those portions which are in conflict with rules and regulations covering property owners residing outside the City.

(S) Any person desiring to connect to, repair, or maintain any type of City Utility located outside of the City Limits shall be required to make a deposit of **Five Hundred Dollars (\$500.00)** to the Newton City Clerk prior to commencing any work relative thereto. Such deposit is for the purpose of insuring that any work is done in a workmanlike manner with all damage to roads, streets and easements properly repaired. Upon completion of the work, the City and any other Township, County or State authority involved shall be notified and allowed to inspect the work. If such work has been performed satisfactorily and no damage exist, the deposit shall be returned to the person making the deposit otherwise the deposit shall be forfeited to the City or other Township, County, or State authority which has suffered the damage. Nothing herein shall limit the liability of any person who has caused damage to the City, Township, County or State for such damages. **(Ord. No. 00-07; 07-18-00)**

38-3-6 **PENALTIES.**

(A) Any person convicted of violating the provisions of this Chapter shall be subject to a penalty as provided in **Section 1-1-20** of this Code.

(B) **Tampering.** It shall be unlawful for any person not authorized by the City to tamper with, alter or injure any part of the City water works and sewerage system, or any part of a City owned waterworks main extension or sewerage main extension, or any meter. Any person found to be in violation of this provision shall be subject to the penalties provided for in the City Code.

(C) Nothing in this Chapter shall be interpreted as prohibiting the institution of criminal charges against any person stealing water from the City by bypassing a meter, tampering with a meter or by any other means.

ARTICLE IV - CROSS-CONNECTION

DIVISION I - ADMINISTRATION

38-4-1 **APPROVED BACKFLOW DEVICE.** All plumbing installed within the City shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

38-4-2 **CROSS-CONNECTION PROHIBITED; EXCEPTION.** No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

38-4-3 **INVESTIGATIONS BY SUPERINTENDENT.** It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-4-4 **RIGHT TO ENTER PREMISES.** The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

38-4-5 **NOTICE TO CUSTOMER; RECONNECT FEE.**
 (A) The City Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **Two Hundred Dollars (\$200.00)** is paid to the City Clerk.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

38-4-6 **CONTAMINATIONS COST AND THE CONSUMER.** The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

38-4-7 - 38-4-8 **RESERVED.**

DIVISION II - CROSS-CONNECTION REGULATIONS

38-4-9 **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.

38-4-10 **APPLICATION.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City.

38-4-11 **RESPONSIBILITY OF OWNER: SHUT-OFF VALVE INSIDE BUILDING.**

The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customer's water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in this Code 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.

38-4-12 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of these regulations:

"Fixed Proper Air Gap" means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

"Agency" means Illinois Environmental Protection Agency.

"Approved" means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

"Auxiliary Water System" means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

“Backflow” means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

“Backflow Prevention Device” means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

“Consumer” or “Customer” means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

“Consumer's Water System” means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

“Contamination” means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

“Cross-Connection” means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

“Direct Cross-Connection” means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

“Indirect Cross-Connection” means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

“Double Check Valve Assembly” means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

“Health Hazard” means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

“Inspection” means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

“Non-potable Water” means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

“Plumbing” means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

“Pollution” means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

“Potable Water” means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

“Potential Cross-Connection” means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

“Process fluid(s)” means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

“Public Water Supply” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

“Reduced Pressure Principle Backflow Prevention Device” means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

“Service Connection” means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

“Survey” means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

“System Hazard” means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

“Used Water” means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

“Water Purveyor” means the owner or official custodian of a public water system.

38-4-13 **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.

38-4-14 **CROSS-CONNECTION PROHIBITED.**

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

38-4-15 **SURVEY AND INVESTIGATIONS.**

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent of Water for the verification of information submitted by the inspection consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with Ill. Comp. Stat., Ch. 225, Sec. 320/3.

(D) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

- (1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.
- (2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.

- (3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.
- (4) Testing and Records
 - (a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 - (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with Ill. Comp. Stat., Ch. 415, Sec. 5/4(e).
 - (c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
 - (d) A maintenance log shall be maintained and include:
 - 1. date of each test;
 - 2. name and approval number of person performing the test;
 - 3. test results;
 - 4. repairs or servicing required;
 - 5. repairs and date completed; and
 - 6. serving performed and date completed.

38-4-16 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.

38-4-17 **TYPE OF PROTECTION REQUIRED.**

(A) The type of protection required under **Section 38-4-16** 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 38-4-16** 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.

38-4-18 **BACKFLOW PREVENTION DEVICES.**

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

38-4-19 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 38-4-19(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

38-4-20 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.

38-4-21 VIOLATIONS AND PENALTIES.

(A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the

Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.

(C) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects on conformance with these Regulations and to the satisfaction of the Superintendent.

(D) Neither the City, the Superintendent, or its agents or assigns, shall be liable to any customers of the City for any injury, damages or lost revenues which may result from termination 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.

(E) The consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

(F) 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.

(G) 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.

ARTICLE V - WELL SET-BACK ZONES

38-5-1 **PURPOSE.** Pursuant to the authority conferred by **65 ILCS Sec. 5/11-125-4 (1992)**; **415 ILCS Sec. 5/14.2**, and **5/14.3 (1992)**; **65 ILCS Sec. 5/7-4-2 (1992)**; and in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply, the provisions of this Chapter shall apply to all properties located within the minimum setback zone established under Section 14.2 of the Environmental Protection Act ("Act") (**415 ILCS Sec. 5/14.2 (1992)**) and this Chapter, and the maximum setback zone established under Section 14.3 of the Act (**415 ILCS Sec. 5/14.3 (1992)**) and this Chapter.

38-5-2 **DEFINITIONS.** Except as stated in this Chapter, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Article shall be the same as those used in the Act and the Illinois Groundwater Protection Act (**415 ILCS Sec. 55/1 (1992)**):

"Act" means the Environmental Protection Act (**415 ILCS Sec. 5/1 (1992)**).

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Maximum Setback Zone" means the area around a community water supply well established under Section 14.3 of the Act and this Article and described in Appendix A.

"Minimum Setback Zone" means the area around a community water supply well established under Section 14.2 of the Act and this Article, and described in Appendix A.

[Map in Appendix "A" on file at City Hall.] (Ord. No. 13-1; 01-02-13)

38-5-3 **PROHIBITIONS.**

(A) Except as provided in **Section 38-5-4** or **38-5-5** of this Article, no person shall place a new potential primary source, new potential secondary source, or new potential route within the minimum setback zone.

(B) Except as provided in **Section 38-5-4** of this Article, no person shall place a new potential primary source within the maximum setback zone.

38-5-4 **WAIVERS, EXCEPTIONS, AND CERTIFICATIONS OF MINIMAL HAZARD.**

(A) If, pursuant to Section 14.2(b) of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is granted a waiver by the Agency, such owner shall be deemed to have a waiver to the same extent from **Section 38-5-3(A)** of this Article.

(B) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating), new potential secondary source, or new potential route is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from **Section 38-5-3(A)** of this Article.

(C) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating) is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from **Section 38-5-3(B)** of this Article.

(D) If, pursuant to Section 14.5 of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is issued a certificate of minimal hazard by the Agency, such owner shall not be subject to **Section 38-5-3(A)** of this Article to the same extent that such owner is not subject to Section 14.2(d) of the Act.

38-5-5 **EXCLUSION.** Section **38-5-3(A)** of this Article shall not apply to new common sources of sanitary pollution as specified pursuant to Section 17 of the Act and the regulations adopted thereunder by the Agency; however, no such common sources may be located within the applicable minimum distance from a community water supply well specified by such regulations.

38-5-6 **WELLS INSIDE CITY.**

(A) **Definitions.**

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

"Potable water" is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes, or preparing food.

(B) **Use of Groundwater as a Potable Water Supply Prohibited.** The use or attempt to use as a potable water supply groundwater from within the corporate limits of the City by the installation or drilling of wells or by any other method is hereby prohibited, including at any points of withdrawal by the City.

(C) **Penalties.** Any person violating the provisions of this Section shall be subject to a fine of up to **Seven Hundred Fifty Dollars (\$750.00)** for each violation. **(Ord. No. 04-8; 10-05-04)**

(Ord. No. 96-21; 12-17-96)

ARTICLE VI - SEWER SYSTEM

DIVISION I - DEFINITIONS

38-6-1 **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"** 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".

"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.

38-6-2 - 38-6-3 RESERVED.

DIVISION II

USE OF PUBLIC SEWERS REQUIRED

38-6-4 **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.

38-6-5 **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.

38-6-6 **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.

38-6-7 **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.

38-6-8 - 38-6-9 **RESERVED.**

DIVISION III

PRIVATE SEWAGE DISPOSAL

38-6-10 **PRIVATE SEWAGE SYSTEM.** Where a public sanitary sewer is not available under the provisions of **Section 38-6-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

38-6-11 **HEALTH DEPARTMENT APPROVAL.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate Health Department. The application for such permit shall be made on a form furnished by the City (reference Appendix #2) which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **One Hundred Dollars (\$100.00)** shall be paid to the City at the time the application is filed.

38-6-12 **PERMIT APPROVAL.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within hours of the receipt of written notice by the Superintendent.

38-6-13 **COMPLIANCE WITH STATE REQUIREMENTS.** The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **forty thousand (40,000) square feet**. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

38-6-14 **AVAILABILITY OF PUBLIC SEWER.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-6-12**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

38-6-15 **OPERATION OF PRIVATE SYSTEM.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

38-6-16 **ADDITIONAL RESTRICTIONS.** No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer.

38-6-17 **TIME CONSTRAINTS FOR PUBLIC SEWER.** When a public sewer becomes available, the building sewer shall be connected to said sewer within **sixty (60) days** and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

38-6-18 - 38-6-20 **RESERVED.**

DIVISION IV

BUILDING SEWERS AND CONNECTIONS

38-6-21 **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.

38-6-22 **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.

38-6-23 **CLASSES OF PERMITS.**

(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 Article IV; Division III of this Chapter.

(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.

38-6-24 **COST BORNE BY OWNER.** All costs and expenses including labor and material incidental to the installation, connection and maintenance of a lateral sewer line shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the lateral sewer lines. This section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

38-6-25 **SEPARATE SEWER: EXCEPTION.** A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; except for sewer connection charges accruing from such buildings or properties.

38-6-26 **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.

38-6-27 **CONSTRUCTION METHODS.** The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the building sewer be less than **four (4) inches**. If **six (6) inch diameter pipe** is used, the slope shall not be less than **one-eighth (1/8) inch** per foot. If **four (4) inch** or **five (5) inch diameter pipe** is used, the slope shall not be less **one-fourth (1/4) inch** per foot. The depth of the

building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. Installation shall be in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All building 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.

38-6-28 PLUMBING CODE REQUIREMENTS. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing materials, Water Pollution Control Federation Manual of Practice No. 9, and Standard Specifications for Water and Sewer Main Construction in Illinois shall apply.

38-6-29 ELEVATION. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with **Section 38-6-22** and discharged to the building sewer.

38-6-30 PROHIBITED CONNECTIONS. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

38-6-31 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 wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

- (A) Installation of a manhole
- (B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter.
- (C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of one-half (1/2) inch gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

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.

38-6-32 **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.

38-6-33 **TAP-IN SUPERVISION AND TESTING.** The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer 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.

38-6-34 **INSPECTION.** After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet City's requirements.

38-6-35 **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.

38-6-36 **PROTECTION OF PROPERTY.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

38-6-37 **BOND REQUIRED.** If the applicant for the building sewer permit does not have a general bond on file with the City, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

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.

38-6-38 **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.

38-6-39 - 38-6-41 **RESERVED.**

DIVISION V - EXTENSION OF COLLECTING SEWERS

38-6-42 **PERMIT REQUIRED; AUTHORIZED PERSONNEL.** No person, not 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.

38-6-43 **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.

38-6-44 **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.
- (3) No clay pipe or tiles shall be permitted.

(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.

38-6-45 **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.

38-6-46 **MANHOLES REQUIRED.** Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **three hundred fifty (350) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers. The access diameter of the manhole shall be at least **twenty-two (22) inches.** (Ord. No. 98-3; 02-05-98)

38-6-47 **MANHOLE SPECIFICATIONS.** The following specifications shall apply to the installation of all sewer manholes:

- (A) Each manhole shall be a reinforced precast concrete structure with an inside diameter of **forty-eight (48) inches.** Each structure shall have a minimum wall thickness of **four (4) inches,** and shall have a precast concrete base using a positive seal gasket system to connect to the sewer lines.
- (B) Poured in place or "bricked" structures shall not be used.
- (C) Each precast structure shall be furnished with steel reinforced plastic steps.
- (D) Each joint between the precast components shall be sealed with a rubber mastic sealant, including all adjustment rings.
- (E) No more than **two (2)** precast adjustment rings shall be used to adjust the overall finished height of the manhole. In no case shall the total height of the adjustment rings exceed **eight (8) inches.**
- (F) The manhole frame and lid shall be cast iron. The frame shall be **nine (9) inches** in height and shall have a minimum access diameter of **twenty-two (22) inches.** The lid shall have a self sealing rubber bead around the inside perimeter, and the face of the lid shall be labeled "Sanitary Sewer". The frame and lid shall be R-1713 as manufactured by the Neenah Foundry Company, or an approved equal.

38-6-48 **RESERVED.**

DIVISION VI

USE OF PUBLIC WASTEWATER FACILITIES

38-6-49 **DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-6-50 **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.

38-6-51 **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.

38-6-52 **HARMFUL EFFECTS OF CERTAIN MATERIALS.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the 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 Hg** at any time except as permitted by the City in compliance with applicable State and Federal regulations.

(I) Materials which exert or cause:

- (1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
- (4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.

(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.

38-6-53 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 38-6-52** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge; and/or;
- (3) require control over the quantities and rates for discharge; and/or;
- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-6-42.**

(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.

38-6-54 INTERCEPTORS PROVIDED.

(A) Grease, oil, and sand interceptors shall be provided in accordance with the Illinois State Plumbing Code to assure the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection. All grease interceptors shall be serviced and emptied of accumulated waste content as required or at a minimum of once every **four (4) months** in order to maintain minimum design capability or effective volume of the grease interceptor and to prevent carry over of grease into the sanitary sewer system. All fast food and sit-down restaurants shall install a grease interceptor with a capacity of at least **one thousand five hundred (1,500) gallons**, and designed in accordance with **Appendix "A"**. Food establishments that serve a minimum amount of fried foods such as deli sandwich shops, shall install a grease interceptor with a capacity of at least **one thousand (1,000) gallons**, and designed in accordance with **Appendix "B"**.

(B) Users whose operations cause or allow excessive grease to discharge or accumulate in the City wastewater collection and treatment system may be liable to the City for costs related to service calls for sewer line blockages, line cleaning, line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service related charges may also be grounds for sewer service discontinuance.

(C) **Maintenance Log.** A grease trap cleaning/maintenance log indicating each pumping for the previous **twenty-four (24) months** shall be maintained by each Food Service Facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the City or his representative upon request.

(D) **Submittal of Records.** Each user shall submit all cleaning and maintenance records to the City. The maintenance records shall include the following information:

- (1) Facility name, address, contact person, and phone number.
- (2) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap.
- (3) Types of maintenance performed.
- (4) Dates maintenance was performed.
- (5) Date of next scheduled maintenance.
- (6) Copies of manifests.
- (7) The user shall be required to submit maintenance records to the City on an annual basis. Records shall be submitted by **September 1st** of each year. The records shall be submitted to:
Attn: Wastewater Superintendent

(E) The City will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the City, the user shall be required to perform the maintenance and records of said maintenance within **fourteen (14) calendar days**. Upon inspection by the City the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

(F) **Control Plan for Fats, Oils, Greases (FOG) and Food Waste.**

- (1) Any new construction, renovation, or expansion of Food Service Facilities shall be required to submit to the City a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.

- (2) Any existing Food Service facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system. Existing facilities shall not be exempt from the requirements of this Section. There will be no "Grandfathering".

(G) **Exceptions to the Above.** Should existing facilities be hampered by space constraints or restrictions caused by unchangeable plumbing, an alternative interceptor may be approved, provided that:

- (1) Said interceptor and installation is endorsed by a licensed plumbing contractor in regard to its operability.
 (2) Said interceptor and installation is endorsed by the City Engineer.
 (3) Said interceptor and installation is approved by the Superintendent and the Water and Sewer Committee.

Such installations may be subject to more stringent inspections and maintenance schedules.

38-6-55 **FLOW-EQUALIZING FACILITIES.** Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

38-6-56 **INDUSTRIAL WASTES CONTROL MANHOLE.** Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

38-6-57 **INDUSTRIAL WASTE TESTING.**

(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this Code and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City, but no less than once per year the industry must supply a complete analysis of the constituents of the 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.

38-6-58 **MEASUREMENTS AND TESTS.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour**

composite

of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

38-6-59 **SPECIAL ARRANGEMENTS.** No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System. **(See Article IV - Division III of this Code)**

38-6-60 - 38-6-64 **RESERVED.**

DIVISION VII

INSPECTIONS

38-6-65 **DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-6-66 **INSPECTION AND TESTING.**

(A) The Superintendent and other duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.

(B) The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterway or facilities for waste treatment.

38-6-67 **LIABILITY OF CITY.** While performing the necessary work on private properties referred to in **Section 38-6-66** above, the Superintendent or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-6-57**.

38-6-68 **PRIVATE PROPERTY INSPECTIONS.** The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-6-69 - 38-6-70 **RESERVED.**

DIVISION VIII - PENALTIES

38-6-71 **PENALTY.** Any person found to be violating any provision of this Code except **Section 38-6-65** shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The City may revoke any permit for sewage disposal as a result of any violation of any provision of this ordinance.

38-6-72 **CONTINUED VIOLATIONS.** Any person who shall continue any violation beyond the time limit provided for in **Section 38-5-50** shall be, upon conviction, be fined in the amount not exceeding **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

38-6-73 **LIABILITY TO CITY.** Any person violating any of the provisions of this Chapter shall become liable to the City by reason of such violation.

38-6-74 **RESERVED.**

DIVISION IX

EXTENSION OF MAINS

38-6-75 **DETERMINATION OF WHO PAYS EXPENSE OF EXTENSION.**

(A) **Determination of Who Pays Expense of Extension.** The City shall first determine if an extension of a sewer main is economically feasible based on the estimated extension. If the extension is economically feasible then the City may install and pay the cost of the extension at the discretion of the City Council. If the City elects not to pay the cost of extending the sewer main then the person or persons desiring sewer service shall install the extension at their own personal expense upon written consent by the City Council. The City shall not pay for any extensions to an undeveloped area such as a subdivision being developed unless there are sufficient existing residents or businesses to make the extension economically feasible.

(B) **Requirements if Extension is Installed by Someone Other than the City.**

- (1) The City must approve all plans and specifications for any extensions.
- (2) Before any extensions are installed, the plans and specifications must be reviewed and approved by the State of Illinois, Environmental Protection Agency.
- (3) Ownership, rights-of-way, and title must be conveyed to the City for all extensions installed by anyone other than the City. The City will maintain the mains thereafter.
- (4) No extension will be permitted if in the opinion of the City Council, the system does not have the necessary capacity to serve the proposed extension.

38-6-76 **CHANGE IN OCCUPANCY.**

(A) Any user requesting a termination of service shall give written notice to the City **ten (10) days** prior to the time such termination of service is desired.

(B) Responsibility for payment for sewer service prior to the date of termination shall be with the property owners as well as the user.

(C) There shall be no charge for transferring the sewer service to the subsequent user.

NEWTON, ILLINOIS
PRIVATE SEWAGE DISPOSAL APPLICATION

A. The undersigned, being the _____ of the property located
(owner, owner's agent)
at _____ does hereby request a permit to install sanitary sewage
(Number) (Street)
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: _____, 20__ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$ _____ (Inspection Fee Paid) DATE: _____, 20__
\$ _____ (Connection Fee Paid) SIGNED: _____
(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20__ SIGNED: _____
(CITY CLERK)

NEWTON, ILLINOIS
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:

- 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.
- To maintain the building sewer at no expense to the City.
- To notify the City when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: _____, 20__ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$ _____ (Inspection Fee Paid) DATE: _____, 20__
\$ _____ (Connection Fee Paid) SIGNED: _____
(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20__ SIGNED: _____
(CITY CLERK)

NEWTON, ILLINOIS
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: _____, 20__ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CITY TREASURER)

\$ _____ (Inspection Fee Paid) DATE: _____, 20__
\$ _____ (Connection Fee Paid) SIGNED: _____
(CITY TREASURER)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20__ SIGNED: _____
(CITY CLERK)

NEWTON, ILLINOIS
APPLICATION FOR WATER SYSTEM SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for connection to the Water System of the City for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or enacted and passed from time to time providing for the regulation of service furnished by the City, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable within **fifteen (15) days** following the receipt of said bill and if not paid, are subject to a **five percent (5%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:

SIGNATURE: _____

(STREET NUMBER AND NAME OF STREET)

(CITY, STATE AND ZIP CODE)

(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

(_____)
(NAME)
(_____)
(STREET NUMBER AND NAME OF STREET)
(_____)
(CITY, STATE AND ZIP CODE)

NEWTON, ILLINOIS
APPLICATION FOR SANITARY SEWER SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for Sanitary Sewerage Service for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the City now in effect or ordinances enacted and passed from time to time providing for the regulation of the sanitary sewer system or specifying fees and rates to be charged for connection and sanitary sewer service furnished by the City. It is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and sewer usage which shall become due as the result of the connecting of the sewerage mains and the furnishing of sanitary sewerage service to the above property, and that all such charges and fees for sanitary sewerage service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the City.
2. All bills for the aforesaid charges are payable within **fifteen (15) days** following the receipt of said bill and if not paid, are subject to a **five percent (5%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the City.
6. Permission is hereby granted to the City and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the sewerage outlets, pipes and mains.

(APPLICANT'S SIGNATURE)

(STREET NUMBER AND NAME OF STREET)

(OWNER'S SIGNATURE, IF NOT APPLICANT)

(CITY, STATE AND ZIP CODE)

(TELEPHONE NUMBER)

(DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

(

(NAME)

(

(STREET NUMBER AND NAME OF STREET)

(

(

(CITY, STATE AND ZIP CODE)

NEWTON, ILLINOIS

R E C E I P T

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below.

This receipt does not authorize service connection is made, inspection and approval of the customer service line by an authorized representative of the City is required, and approval of such connection and issuance of a Certificate of Inspection and Approval and Permit is conditioned upon compliance with all the Ordinances, Codes, Rules and Regulations of the **City**.

NOTE:

1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.
2. This office is to be notified the day before the work is to be done so that inspection may be arranged in accordance with specifications furnished. For example, if you desire inspection on Tuesday, contact us on Monday. If you desire inspection on Monday, contact us on Friday, etc.
3. If the sewer line is deep enough to drain your basement, if you have one, then the wastes from the basement as well as the other floor(s) of the property must go into the sanitary sewers. Downspout and surface drainage are prohibited inasmuch as this is not a storm sewer system.

WARNING! In order to coordinate our inspections, we must be advised a day in advance before the work is done. The inspection must be made before the trench is backfilled. If trench is backfilled before the inspection is made, it will have to be reopened to permit inspection.

NO. _____

DATE: _____

ADDRESS: _____

OWNER(S): _____

**CITY OF NEWTON
JASPER COUNTY, ILLINOIS**

NEWTON, ILLINOIS
CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT

IT IS HEREBY CERTIFIED THAT inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specifications, Rules and Regulations established by the Revised Code (Ch. 38) of this Municipality.

Permission is hereby granted to complete the construction of said individually-owned sewer main to the City Sanitary Sewerage System and to utilize the same for waste disposal in compliance at all times, with the Revised Code of this City.

NO. _____

ADDRESS:

TYPE OF CONNECTION:

_____	Single-Family Residence
_____	Multiple dwelling or trailer court
_____	Commercial
_____	Industrial
_____	Institutional
_____	Governmental

INSTALLATION BY: _____

THE SERVICE IS IN OPERATION AS OF THIS _____ DAY OF _____, 20__.

CITY OF NEWTON
JASPER COUNTY, ILLINOIS

SIGNED: _____

CITY OF NEWTON
UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **City of Newton, 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 NEWTON, ILLINOIS

BY: _____
DIRECTOR OF PUBLIC WORKS

ATTEST:

CITY CLERK

APPLICANT/DEPOSITOR

WITNESSES:

CITY OF NEWTON
UTILITY SHUTOFF HEARING NOTICE

This notice is being sent to you pursuant to the provisions of **CHAPTER 38 OF THE REVISED CODE OF ORDINANCES** as adopted by the corporate authorities.

CUSTOMER'S NAME: _____

ADDRESS: _____

TOTAL AMOUNT OF BILL: \$_____ WATER

 \$_____ SEWER

 \$_____ OTHER

SUB-TOTAL: \$_____

PENALTY: \$_____

TOTAL DUE: \$_____

DATE OF HEARING _____

TIME OF HEARING _____

LOCATION OF HEARING _____

PHONE: _____

If the consumer/customer fails to appear at the hearing, the applicable utility services shall be **terminated** [shut off] without further proceedings.

If payment for the charges and fees is received prior to the date of the hearing, you may disregard this hearing notice.

The Mayor and City Clerk, or their designated representative(s), shall preside at the hearing.

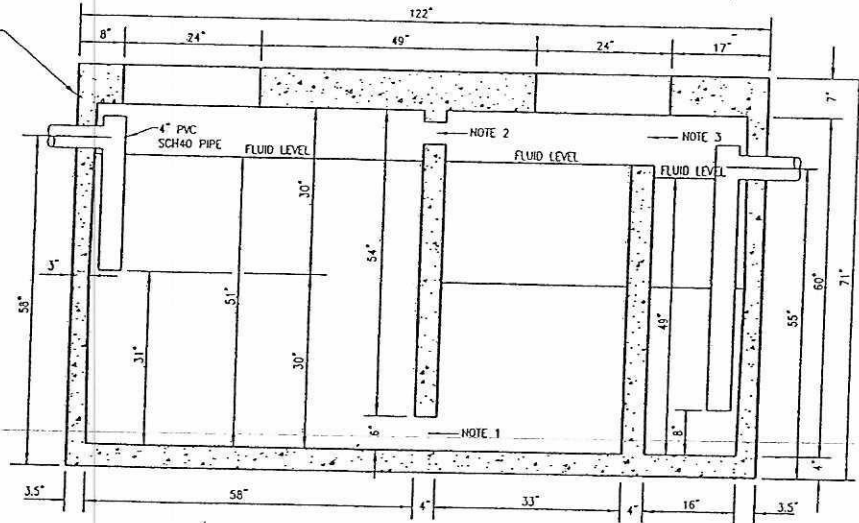
CITY CLERK

DATED THIS _____ DAY OF _____, 20__.

NOTE: After services have been shut off there will be a reconnection fee of \$_____.

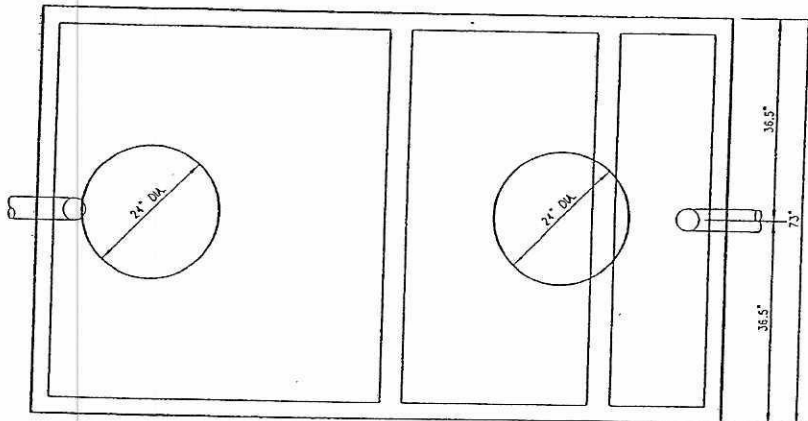
APPENDIX A

ADD RISER SECTIONS TO GREASE INTERCEPTOR PER VILLAGE OF SWANSEA SEWER REQUIREMENTS TO ACHIEVE FINISH GRADE ELEVATION



- NOTE 1: 6'H x 32'W OPENING AT BOTTOM CENTERED
- NOTE 2: 2-4" DIAMETER HOLES - 2" DOWN - 4" OFF CENTER - 8" BETWEEN HOLES
- NOTE 3: 9'H x 24'W OPENING AT TOP CENTERED

SIDE SECTION



TOP VIEW

WEIGHT: 14,670 LBS

NOTE:
THIS TANK IS NOT DESIGNED FOR VEHICULAR TRAFFIC. IF USED IN TRAFFIC AREAS A REINFORCED CONCRETE SLAB MUST SPAN THE TANK AND OVERDIG TO PROTECT THE TANK.

- OPTIONS:**
- GRADE RISERS (DONUTS)
 - FRAME & COVERS
 - LARGER INLET & OUTLET
 - BIO-GEM ENZYME ADDITIVE
 - SEALANT

500 GALLON REINFORCED CONCRETE GREASE INTERCEPTOR

EXCAVATION SIZE: 11'L x 7'W



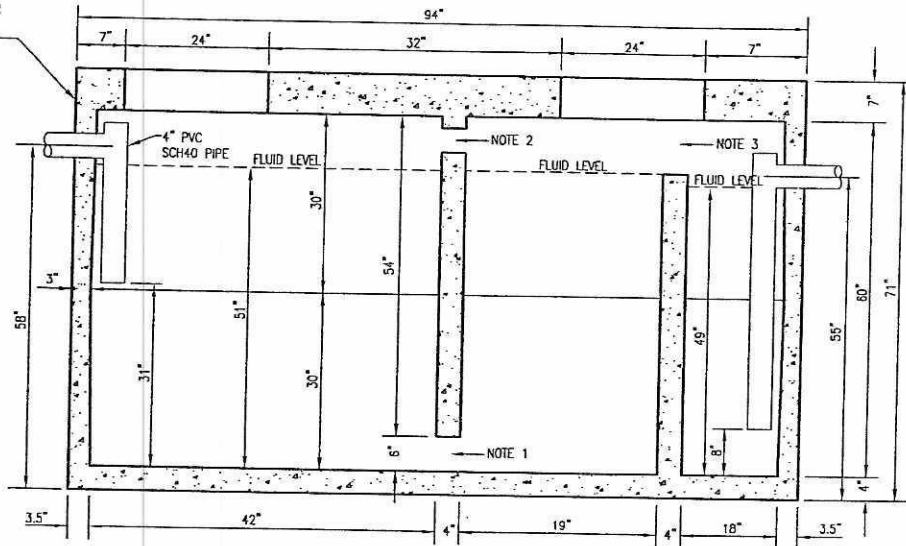
DRAWN BY: DLS

1500 GALLON REINFORCED CONCRETE GREASE INTERCEPTOR

GREASE TRAP (1500 GALLON)

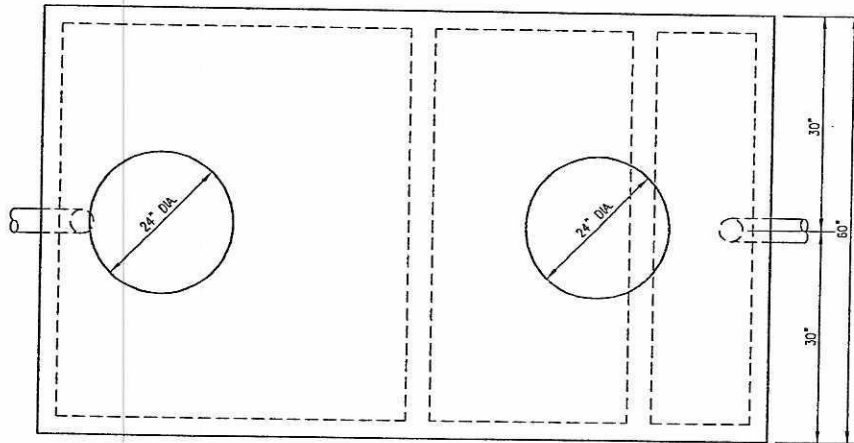
APPENDIX "B"

ADD RISER SECTIONS TO GREASE INTERCEPTOR PER VILLAGE OF SWANSEA SEWER REQUIREMENTS TO ACHIEVE FINISH GRADE ELEVATION



- NOTE 1: 6"H x 32"W OPENING AT BOTTOM CENTERED
 NOTE 2: 2-4" DIAMETER HOLES - 2" DOWN - 4" OFF CENTER - 8" BETWEEN HOLES
 NOTE 3: 9"H x 24"W OPENING AT TOP CENTERED

SIDE SECTION



TOP VIEW

WEIGHT: 14,670 LBS

NOTE:

THIS TANK IS NOT DESIGNED FOR VEHICULAR TRAFFIC. IF USED IN TRAFFIC AREAS A REINFORCED CONCRETE SLAB MUST SPAN THE TANK AND OVERDIG TO PROTECT THE TANK.

OPTIONS:

- GRADE RISERS (DONUTS)
- FRAME & COVERS
- LARGER INLET & OUTLET
- BIO-GEM ENZYME ADDITIVE
- SEALANT

1000 GALLON REINFORCED CONCRETE GREASE INTERCEPTOR

EXCAVATION SIZE: 9'L x 6'W



DATE: 1/21/05
 DRAWN BY: DLS

1000 GALLON REINFORCED
 CONCRETE GREASE INTERCEPTOR

GREASE TRAP
 (1000 GALLON)

**Zoning
Code**
-of-
the
City of
Newton,
Illinois

PREPARED BY:
Illinois Codification Services

"Serving Illinois Since 1970"

Post Office Box 69

Freeburg, Illinois 62243-0069

Phone: (618) 539-5771

FAX: (618) 539-9890

CHAPTER 40 - ZONING CODE

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CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

40-1-1 **TITLE.** This Code shall be known as and cited as the **Zoning Code of the City of Newton.**

40-1-2 **PURPOSE.** In accordance with State law, this Code regulates structures and land uses in order to preserve, protect, and promote the public health, safety and welfare. More specifically, this Code is intended to assist in achieving the following objectives:

- (A) To encourage the development of buildings and uses on appropriate sites in order to maximize community-wide social and economic benefits while accommodating the particular needs of all residents, and to discourage development on inappropriate sites;
- (B) To assist in implementing the Comprehensive Plan, if any;
- (C) To protect and enhance the character and stability of sound existing agricultural, residential, commercial and industrial areas, and to gradually eliminate nonconforming uses and structures;
- (D) To conserve and increase the value of taxable property throughout the City;
- (E) To ensure the provision of adequate light, air and privacy to the occupants of all buildings;
- (F) To protect persons and property from damage caused by fire, flooding, and improper sewage disposal;
- (G) To provide adequate and well-designed parking and loading space for all buildings and uses, and to reduce vehicular congestion on the public streets and highways;
- (H) To ensure the proper design and improvement of mobile home parks;
- (I) To promote the use of signs which are safe, aesthetically pleasing, compatible with their surroundings, and legible in the circumstances in which they are seen; and
- (J) To provide for the efficient administration and fair enforcement of all the substantive regulations in this Code. **(See 65 ILCS 5/11-13-1)**

40-1-3 **JURISDICTION.** This Code shall be applicable within the corporate limits of the City of Newton, Illinois and the surrounding **one (1) mile** area as provided by Illinois Statutes and as exhibited on the Zoning Map of the City maintained at City Hall. **(Ord. No. 11-8; 07-19-11)**

40-1-4 **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of this municipality, and every requirement imposed in this Code shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-5 **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of this municipality shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.

(B) Any suit brought against any officer, board member, agent, or employee of this municipality, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the Municipal Attorney until the final determination of the legal proceedings. **(See “Local Governmental and Governmental Employees Tort Immunity Act”, III. Comp. Stat., Ch. 745 Secs. 10/1-101)**

40-1-6 **SEVERABILITY.** If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

40-1-7 **REVIEW.** This Code shall be reviewed every other year after its effective date, by the Board of Appeals. After the review, they shall file their reports and recommendations with the City Council. **(Ord. No. 09-1; 03-17-09)**

ARTICLE II - DEFINITIONS

40-2-1 CONSTRUCTION OF TERMS. In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English meanings.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and the plural the singular.

(E) The term "shall" is mandatory.

(F) The term "may" is discretionary.

(G) The words "lots," "parcel," "tract," and "site" shall be synonymous.

(H) The phrases "used for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for" shall be synonymous.

(I) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot**.

(J) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(K) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

40-2-2 SELECTED DEFINITIONS.

Abutting: As applied to lots, "abutting" means having a common lot line or district line, or so located in relation to each other that there would be a common lot line or district line but for the existence of a street, alley, or other public right-of-way.

Access Way: A curb cut, ramp, or other means for providing vehicular access to an off-street parking or loading area from a street.

Accessory Use: Any structure or use that is:

(A) Subordinate in size or purpose to the principal use or structure which it serves;

(B) Necessary or contributing to the comfort and convenience of the occupants of the principal use or structure served; and

(C) Located on the same lot as the principal use or structure served.

Administrator: The official appointed by the Mayor with the advice and consent of the City Council to administer this Code, or his representative. **(Synonymous with "Zoning Administrator.")**

Agriculture: Any one or any combination of the following: the growing of farm or truck garden crops, dairying, pasturage, horticulture, floriculture, or animal/poultry husbandry. The term "agriculture" encompasses the farmhouse, and accessory uses and structures customarily incidental to agricultural activities.

Aisle: A vehicular traffic-way within an off-street parking area, used as a means of access/egress from parking spaces.

All-Terrain Vehicle (ATV): 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 **nine hundred (900) pounds**

or less, traveling on **three (3)** or more low-pressure 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 5/1-1-1.8)**

Alley: A public right-of-way which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

Alter: To change the size, shape, or use of a structure or the moving from one location to another.

Amendment: A change in the provisions of this Code {including those portions incorporated by reference}, properly effected in accordance with State law and the procedures set forth herein.

Apartment: A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

Apartment Hotel: A multiple-family dwelling which furnishes for its tenants services customarily provided by hotels, but which does not furnish such services to the transient public.

Attached: As applied to buildings, "attached" means having a common wall and/or a common roof.

Auditorium: A room, hall or building made a part of a church, theater, school, recreation building or other building assigned to the gathering of people as an audience, to hear lectures, plays and other presentations, as well as participate in dances, dinners, expositions, bingos, etc.

Basement: A story having **one-half (1/2)** or more of its height below the average level of the adjoining ground.

Bed and Breakfast: An operator-occupied residence providing accommodations for a charge to the public with no more than **five (5) guest rooms** for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period. Breakfast and light snacks/refreshments may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

Billboard: A sign advertising a commodity, business, service, or event not available or conducted upon the premises where such sign is located or to which it is affixed.

Block: An area of land entirely bounded by streets, highways, barriers, or ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or way) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

Board of Appeals: The Zoning Board of Appeals of the City.

Boarding House: A building or portion thereof--other than a hotel, motel, or apartment hotel--containing lodging rooms for **three (3)** or more persons who are not members of the keeper's family, and where lodging and/or meals are provided by prearrangement and for definite periods.

Buffer Strip: An area of land undeveloped except for landscaping fences, etc., used to protect a use situated on **one (1) lot** from the deleterious effects of the use on the adjacent lot.

Building: Any structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Building, Enclosed: A building covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls or by common walls, with openings only for windows and doors.

Building Height: The vertical distance measured from the average elevation of the proposed finish grade at the front wall of the building to the highest point of the roof.

Building Line: The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

Building, Principal: A non-accessory building in which the principal use of the premises is conducted.

Bulk: Any one or any combination of the following:

- (A) Size or height of structure;
- (B) Location of exterior walls at all levels in relation to lot lines, streets, or other structures;
- (C) Floor/area ratio;
- (D) Yards or setbacks;
- (E) Lot coverage.

Camping Trailer: A trailer, not used commercially, constructed with partial side walls which fold for towing and unfold to provide temporary living quarters for recreational camping or travel use and of a size or weight not requiring an over-dimension permit when towed on a highway. **(625 ILCS 5/1-109.01)**

Camping Trailer Park: A lot developed with facilities for accommodating temporarily occupied camping trailers.

Centerline:

- (A) The centerline of any right-of-way having a uniform width;
- (B) The original centerline, where a right-of-way has been widened irregularly;
- (C) The new centerline, whenever a road has been relocated.

Certificate of Zoning Compliance, Initial: A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Code and may, therefore, be occupied or used.

Certificate of Zoning Compliance, Final: A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

Church or Building for Religious Worship: A building used by a corporate religious institution that people regularly attend to participate in religious services, meetings and other customary, integrally related religious activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clinic: An establishment where licensed physicians or dentists practice medicine or dentistry, but where overnight lodging for sick or injured persons is not provided.

Club/Lodge: A nonprofit association or persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Commercial Use/Establishment: Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

Community Residence: A group home or specialized residential care home serving unrelated persons with handicaps which is licensed, certified or accredited by appropriate local, state or national bodies.

Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse or for treatment of communicable disease.

Community Residence - Large: A community residence serving **nine (9)** to **fifteen (15)** persons with handicaps.

Community Residence - Small: A community residence serving **eight (8)** or fewer persons with handicaps in a family-like atmosphere.

Conforming: In compliance with the applicable provisions of this Code.

Convenience Shop: Any small retail commercial or service establishment offering goods/services.

Day Care Center: See "Nursery School."

Deck: An open porch which has no roof, is generally open on the sides, is above ground level, and its intended use is for leisure enjoyment.

Detached: As applied to buildings, "detached" means surrounded by yards on the same lot as the building.

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

District Zoning: A portion of the territory of this municipality wherein certain uniform requirements or various combinations thereof apply to structures, lots and uses under the terms of this Code.

Driveway: A minor way commonly providing vehicular access to a garage or off-street parking area.

Drive-In Restaurant or Refreshment Stand: An establishment principally used for the sale of fast order food for consumption off the premises or in parked cars on the premises. Fast order food means food that is:

- (A) Primarily intended for immediate consumption;
- (B) Available after a short waiting time; and
- (C) Packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, and other accommodations for the transient public. Modular dwellings on permanent foundations shall be treated in the same manner as conventionally constructed dwellings (see definition for modular and permanent foundation).

Dwelling, Multiple-Family: A building or portion thereof containing **three (3)** or more dwelling units.

Dwelling, Single-Family: A detached dwelling containing one dwelling unit and intended for the occupancy of one family.

Dwelling, Two-Family: A dwelling containing **two (2)** dwelling units.

Dwelling Unit: One or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes a bathroom and a kitchen.

Easement: A right to use another person's real property for certain limited purposes.

Enlarge: To increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

Erect: Build, construct.

Essential Governmental or Public Utility Services: The erection, replacement, construction, alteration, or maintenance by public utilities or governmental departments, of underground or overhead gas, electrical, steam, water transmission or distribution systems, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings.

Establishment: Either of the following:

- (A) an institutional, business, commercial, or industrial activity that is the sole occupant of one or more buildings; or
- (B) an institutional, business, commercial, or industrial activity that occupies a portion of a building such that:
 - (1) the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and
 - (2) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

Existing: Existing, constructed or in operation, on the effective date of this Code.

Extend: To increase the amount of floor area or land area devoted to an existing use.

Family:

- (A) A single individual doing his own cooking and living upon the premises as a separate housekeeping unit; or
- (B) A collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, adoption or employment as domestic servants; or
- (C) A group of not more than **three (3)** unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity or hotel).

Farmhouse: A detached dwelling on a tract of land of not less than **ten (10) acres** and occupied by a family whose income is primarily derived from agricultural activities conducted on the premises.

Filling Station: (See Service Station)

Floor Area, Gross: As used in determining floor/area ratios and parking requirements, the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes all of the following: basement floors; attic floor space; halls, closets, stairwells; space devoted to mechanical equipment; enclosed porches.

Freight Terminal: as applied to motor carriers subject to the **Illinois Compiled Statutes, Chapter 625, Section 18c-1101 et seq.**, a station for commercial motor vehicles wherein said motor trucks are stored, repaired or parked.

Frontage: The lineal extent of the front (street-side) of a lot.

Garage: A structure designed and primarily used for the storage of motor vehicles, whether free of charge or for compensation.

Group Home: (See Community Residence)

Government: The act or process of administering public policy in a political unit; a political jurisdiction, the office or function thereof.

Home Occupation: Any business, profession, or occupation conducted for gain or support entirely within a dwelling or on residential premises in conformity with the provisions of this Code. (See Section 40-5-7.)

Hospital: An institution devoted primarily to the maintenance and operation of facilities around-the-clock for the diagnosis, treatment, or care for members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this Code does not include institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, nor does it include convalescent or nursing homes.

Hotel: An establishment containing lodging accommodations designed for use by travelers or temporary guests. Facilities provided may include a general kitchen, maid service, desk service, meeting rooms, restaurants, cocktail lounges, and similar ancillary uses, but not cooking facilities in guest rooms.

Immobilize: As applied to a mobile home, "immobilize" means to remove the wheels, tongue and hitch and place on a permanent foundation.

Intensify: To increase the level or degree of.

Intersection: The point at which two or more public rights-of-way (generally streets) meet.

Junk Yard: An open area of land and any accessory structures thereon that are used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition or parts thereof, and metals, glass, paper, plastics, rags, and rubber tires. A lot on which **three (3)** or more inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard.

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

Landscape Fence: A non-obstructive fence, no greater than four (4) feet in height, of approved design and materials. Picket, split-rail, and wrought iron fences are acceptable within this definition. Examples of unacceptable fence types include privacy, chain link, and welded wire.

Loading Space: An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot: A tract of land used or developed as a unit, under single ownership or under single control. A "lot" may or may not coincide with a "lot of record."

Lot, Corner: A lot having at least **two (2)** adjacent sides that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

Lot, Through: A lot having a pair of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lines of a lot.

Lot Coverage: The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line of a lot.

Lot Line, Front: The lot boundary abutting the street.

Lot Line, Rear: An interior lot line which is most distant from and most nearly parallel to the front lot line. The rear lot on corner lots shall be defined as the line most distant and most nearly parallel to either of the front lot lines as defined elsewhere in these definitions.

Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record: An area of land designated as a lot on a plat of subdivision recorded or registered with the County Recorder of Deeds, in accordance with State law.

Lot Size Requirement: Refers to the lot area, width, and depth requirements of the applicable district.

Lot Size/Bulk Variance: A relaxation of the strict application of the lot size and/or bulk requirements applicable to a particular lot or structure. A lot Size/Bulk Variance goes with the property.

Lot Width: The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the rear line of the required front yard (building lines), especially on irregularly shaped lots.

Maintenance: The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep a structure in sound condition.

Mini-Warehouses: A building, or part of one, for the storage of goods, merchandise, etc. for rent to individuals or businesses for a monthly fee.

Mobile (Manufactured) Home: A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term "mobile home" shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal "**National Manufactured Housing Construction and Safety Standards Act of 1974**". Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior taillight end of the mobile home. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a "**mobile home**" but shall be an "**immobilized mobile home**". A mobile home should not be confused with a "**camping trailer**" or "**recreational vehicle**". (See 210 ILCS 115/2.10)

Mobile Home, Dependent: A mobile home which does not have a toilet and bath or shower facilities. (See 210 ILCS 115/2.3)

Mobile Home, Double-Wide: Consists of **two (2)** mobile units joined at the site into a single home but kept on their separate chassis for repeated transportation to a site.

Mobile Home, Immobilized: Any mobile home resting on a permanent foundation with wheels, tongue, and hitch permanently removed. The City Council establishes the following criteria to complete the immobilization of a mobile home:

(A) The foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the front line shall satisfy the requirement for a permanent foundation.

(B) As an alternative to paragraph (A) above, piers may be used, extending into the ground below the frost line and sufficient in number to properly support the mobile home.

(C) To complete the immobilization, wheels, tongue, and hitch shall be removed. Axles may be removed.

Mobile Home, Independent: A mobile home which has self-contained toilet and bath or shower facilities. (See 210 ILCS 115/2.4)

Mobile Home Lot: A parcel of land for the placement of a mobile home and the exclusive use of its occupants.

Mobile Home Pad: That part of an individual mobile home space or lot beneath the mobile home, including the concrete portion of the pad.

Mobile Home Park: A tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent mobile homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a mobile home park if they are maintained and operated jointly. Neither an immobilized mobile home nor a motorized recreational vehicle shall be construed as being a part of a mobile home park. (See 210 ILCS 115/2.5)

Mobile Home Sales Area: A parcel of land used for the display, sale and repair of new or used mobile homes.

Mobile Home Space: A portion of a mobile home park designed for the use or occupancy of **one (1)** mobile home.

Mobile Home Stand: The part of a mobile home space beneath the mobile home that includes the concrete slab on which the home is placed and to which it is anchored.

Mobile Housing Unit: Includes all forms of housing units listed in this Section and as regulated in this Code.

Mobile or Portable Marquee: A term used to describe any sign designed to be moved from place to place, including, but not limited to, signs attached to wood or metal frames designed to be self-supporting and movable; or paper, cardboard, or canvas signs wrapped around supporting poles.

Modular Home: As defined by this Code a modular home is a factory-fabricated single-family home built in one or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed in a full perimeter permanent foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home must have a minimum 3/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Modular homes shall meet either the National Manufactured Home Construction and Safety Standards (HUD Code) or the Building Code (BOCA). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

Motel: A motel for motorists, usually with blocks of rooms opening directly onto a parking area. Also called motor court.

Noisome and Injurious Substances, Conditions and Operations:

(A) Creation of unreasonable physical hazard, by fire, explosion, radiation or other cause, to persons or property.

(B) Discharge of any liquid or solid waste into any stream or body of water or into any public or private disposal system or into the ground, so as to contaminate any water supply, including underground water supply.

(C) Maintenance or storage of any material either indoors or outdoors so as to cause or to facilitate the breeding of vermin.

(D) Emission of smoke, measured at the point of emission, which constitutes an unreasonable hazard to the health, safety, or welfare of any person(s).

(E) Fly ash or dust which can cause damage to the health of persons, animals, or plant life or to other forms of property, or excessive soil, measured at or beyond the property line of the premises on which the aforesaid fly ash or dust is created or caused.

(F) Creation or causation of an unreasonably offensive odors discernible at or beyond any property line of the premises on which the aforesaid odor is created or caused.

(G) Creation or maintenance of any unreasonable reflection or direct glare, by any process, lighting or reflective material at or beyond any property line of the premises on which the reflective or direct glare is created or caused.

Nonconforming: As applied to a lot, structure, or use, "nonconforming" means: (1) lawfully existing on the effective date of this Code, but (2) not in compliance with the applicable provisions thereof.

Nuisance: Any thing, condition, or conduct that endangers health, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life. **(See Chapter 25 of the Revised Code)**

Nursery: A tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

Nursery School: An establishment for the part-time care and/or instruction (at any time of day) of **four (4)** or more unrelated children of predominantly pre-elementary or elementary school age.

Nursing Home: A building used as a medical care facility for persons who need long-term nursing care and medical service, but do not require intensive hospital care.

Office: Any building, or portion thereof, in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.

Official Map: The portion of the master plan which designates land necessary for public facilities or uses. It shall include streets, alleys, public ways, parks, playgrounds, school sites and other public grounds and ways for public service facilities within the whole area included within the official comprehensive plan. It can be one or more separate geographical or functional parts or include all or any part of the contiguous, unincorporated area under the planning jurisdiction of the City.

Off-Street Parking Area: Land that is improved and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking area," depending on the circumstances of its use, may either a principal use or an accessory use.

Off-Street Parking Space: An area at least **twenty (20) feet** long and **ten (10) feet** wide within an off-street parking area or garage, used for the storage of one passenger motor vehicle.

Overlay District: A zoning district superimposed over one or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems caused by such factors as steep slopes, wet soils, flooding, etc.

Patio: An at-grade -paved area without any walls usually adjacent to a building, and which is intended to be used as an outdoor lounging, dining, or entertaining area.

Permanent Foundation: A permanent support for buildings that are constructed of conventional foundation materials such as concrete or cement blocks. The foundation footing shall extend below the frost line.

Permanent Habitation: A period of **two (2)** or more months. **(See 210 ILCS Sec. 115/2.2)**

Permitted Uses: Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

Person: Any individual, firm, association, organization, or corporate body.

Plan: The geographical and topographical maps, engineering and architectural drawings and specifications, and other information indicating the location and nature of a development.

Planned Development Project: A residential or commercial development on a parcel of land in single ownership and consisting of **two (2)** or more buildings having any yard, court, parking or loading space in common.

Porch: A structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, usually covered with a roof, generally open-sided, and usually large enough to allow seating devices.

Premises: A lot and all the structures and uses thereon.

Principal Building/Structure/Use: The main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

Private Street: Any street providing access to abutting property that is not maintained by and dedicated to a unit of government.

Public Buildings: Any building owned, operated, constructed or maintained at the expense of the public or a building which provides a service or function necessary for the general health, welfare, and convenience of the public.

Public Open Space: Any publicly owned open area, including, but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public Utilities: Utilities which are either government-owned or owned by an established firm serving a wide geographical area and/or a substantial number of persons.

Public Utility Services: Means and includes facilities providing those services used for or in connection with the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity, water or light except when used solely for communications purposes. Public Utility Services does not mean and shall not include facilities designed or intended to be used for the transmission of telephone messages or any other form of telecommunications.

Quick Shop: Any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multi-family complex, mobile home park or similar development. No liquor or gasoline shall be sold in this shop.

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after partial destruction.

Recreation Vehicle: Every camping trailer, motor home, mini motor home, travel trailer, truck camper or van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business. **(625 ILCS 5/1-169)**

Recreational Vehicle (RV) Park: See Camping Trailer Park.

Refuse: Garbage (food wastes) and trash, but not sewage or industrial wastes.

Relocate: To move to another portion of a lot or to a different lot.

Repair: To restore to sound condition, but not to reconstruct.

Residence: A site-constructed building designed for use as a residence. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a residence shall not exceed a ratio of 3 to 1. All residences shall be placed on a full perimeter foundation extending below the frost depth unless located in a Special Flood Hazard Area and shall have a minimum 3/12 pitch roof. All residences shall have a minimum of **nine hundred (900) square feet** of living area and shall be built in conformity with the International Building Code.

Retail: Refers to the sale of goods and services directly to the consumer rather than to another business.

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys.

Sanitary Landfill: A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency.

Satellite Dish: Any parabolic/dish-type apparatus, external to or attached to the exterior of a building or structure, capable of receiving, for the benefit of the principal use, television or radio signals. Satellite dishes are considered an accessory use.

Screening: Trees, shrubs, walls, solid fences, etc. used as a means of view and noise control.

Semi-Finished Materials: Materials which have been sufficiently processed at heavy industrial facilities so that they are no longer in their raw state but are readily usable by light industry for assembly or manufacture into consumer goods.

Service Station: A building and premises or portion thereof designed and used for the retail sale of gasoline or other automotive fuel, oil, and automotive parts, supplies, and accessories. A service station may include facilities for washing vehicles and for making minor automotive repairs.

Service Use/Establishment: Any use or establishment where services are provided for remuneration either to individuals or to other firms.

Setback: The distance between the front lot line and the building line; or between a side or rear lot line and the side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

Sign: Any object, device, display or structure or part thereof used to advertise, identify, display or attract attention to a person, establishment, product, service or event by any means including words, letters, figures, designs, symbols, fixtures, colors, illuminations, etc. The term "sign" includes, but is not limited to, every projecting sign, freestanding sign, awning, canopy, marquee sign; changeable copy sign, illuminated sign; moving sign, temporary sign; portable sign; or other display whether affixed to a building or erected elsewhere on the premises. The term "sign" excludes features of a building which are an integral part of the building's design (e.g., the "castle-look" of a White Castle restaurant).

Sign, Canopy/Marquee: Any sign affixed to, painted on, or suspended from an awning, canopy, marquee or similar overhang.

Sign, Flush-Mounted: Any sign attached to or erected against a wall of a structure with the exposed face of the sign in a plane approximately parallel to the plane of the wall and not projecting more than **eighteen (18) inches**. A flush-mounted sign displays only messages associated with the building to which said sign is attached.

Sign, Freestanding: Any sign supported by **one (1)** or more uprights, poles, or braces placed in or upon the ground; or any sign supported by any structure erected primarily for the display and support of the sign; provided that a freestanding sign displays only messages associated with the structure to which it is attached.

Sign, Projecting: Any sign which is suspended from or supported by a wall, awning, canopy, marquee, etc., and which is approximately perpendicular thereto. A projecting sign displays only messages associated with the structure to which it is attached.

Sign Area: The entire area within a single, continuous perimeter enclosing the extreme limits of the message and the background thereof, calculated in accordance with the provisions of this Code.

Sign Area Allowance: The maximum total sign area of all signs that an establishment is permitted to display.

Skirting: The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

Special Use: A use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district, and are allowed only by permit. A special use permit shall not be transferable.

Stable: A structure, situated on the same lot as a dwelling, under common ownership, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

Stoop: A small porch which is usually not covered with a roof and which is primarily used to provide access to the adjoining building.

Stop Order: A type of corrective action order used by the Administrator to halt work in progress that is in violation of this Code.

Street: A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way for pedestrian use only.

Street Line: The street right-of-way line abutting a lot line.

Structure: Anything constructed or erected on the ground or attached to something having fixed location on the ground. All buildings are structures, but not all structures are buildings.

Structure, Temporary: Any structure that is not attached to a permanent foundation.

Telecommuting: Working in the home by using a computer terminal or other terminal connected by a telephone line or by other means to a central office or central computer.

Temporary Use Permit: A permit issued in accordance with the provisions of this Code and valid for not more than **one (1) year**, which allows the erection/occupation of a temporary structure or the operation of a temporary enterprise.

Topography: The relief features or surface configuration of an area.

Trailer: Every vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. **(625 ILCS 5/1-209)**

Use: The purpose or activity for which land or a structure thereon is designed, arranged, intended, occupied, or maintained.

Use Variance: A type of amendment (not a variance) that allows a use in a district where said use would not be allowed under existing provisions of this Code.

Utility Substation: A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

Vacant as applied to a lot, means that no structure is situated thereon.

Variance: A relaxation of the strict application of the lot size, setbacks, or other bulk requirements applicable to a particular lot or structure.

Vessel or Watercraft: Every description of watercraft used or capable of being used as a means of transportation on water, except a seaplane on the water, inner tube, air mattress or similar device, and boats used for concession rides in artificial bodies of water designed and used exclusively for such concessions. **(625 ILCS 45/1-2)**

Wholesale: Refers to the sale of goods or services by one business to another business.

Window Sign: Any sign visible from the exterior of a building or structure which is painted directly on the surface of a window or affixed to or suspended immediately behind the window for the purpose of informing passersby of the identity of the proprietor or business, or of the product or service which can be obtained on the premises.

Yard: Open space that is unobstructed except as specifically permitted in this Code and that is located on the same lot as the principal building.

Yard, Front: A yard which is bounded by the side lot lines, front lot line and the building line.

Yard, Rear: A yard which is bounded by side lot lines, rear lot lines, and the rear yard line.

Yard, Side: A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

Yard Line: A line in a lot that is parallel to the lot line along which the applicable yard extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

Zoning Administrator; Zoning Official or Zoning Officer: The Zoning Administrator of this municipality or his authorized representative.

Zoning Map: The map(s) and any amendments thereto designating zoning districts. The zoning map is incorporated into this Code.

ARTICLE III - ZONING REGULATIONS

DIVISION I - GENERAL REGULATIONS

40-3-1 ESTABLISHMENT OF DISTRICTS. In order to implement this Code, and to achieve the objectives in Article I, the entire municipality is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA*</u>
Agricultural	A-1	3 acres
Single Family Residence (Large)	SR-1	5 acres
Single Family Residence (Small)	SR-2	5 acres
Multi-Family Residence	MR-1	5 acres
Multi-Family Residence	MR-2	3 acres
Mobile Housing	MH-1	3 acres
Neighborhood Business	B-1	1 acre
Central Business	B-2	2 acres
Highway Business	B-3	3 acres
Industrial	I-1	5 acres
Flood Plain Overlay	F	N/A

* The "minimum area" requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the acreage of numerous noncontiguous parcels, when aggregated, happens to equal or exceed the minimum area indicated above.

40-3-2 MAP - ANNUAL PUBLICATION. The boundaries of the listed zoning districts are hereby established as shown on the zoning map of this municipality. The zoning map, including all notations and other information thereon, is hereby made a part of this Code by reference. Official copies of the zoning map shall be kept on file in the office of the Zoning Administrator or other appropriate official.

In accordance with State Law, the Administrator shall publish the City's zoning map not later than **March 31st** of each year. However, no map shall be published for any calendar year during which there have been no changes in zoning districts or regulations. **(See 65 ILCS 5/11-13-19)**

NOTE: The map shall be published if there are any annexations.

40-3-3 DETERMINING TERRITORIAL LIMITS. In determining with precision what territory is actually included within any zoning district, the Zoning Administrator shall apply the following rules:

(A) Where a district boundary as indicated on the zoning map approximately follows the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary:

- | | | |
|-----|---|---------------------------------|
| (1) | Center line of any street, alley or highway | Such centerline. |
| (2) | Lot line | Such lot line. |
| (3) | Railroad tracks | Right-of-way line of such track |

(B) Whenever any street, alley or other public way is legally vacated, the zoning districts adjoining each side of such vacated public way shall automatically extend to the center of such way, and all territory included in the vacated way shall thereafter be subject to all regulations of the extended districts.

(C) All territory (including bodies of water) that lies within the zoning jurisdiction of this municipality, but which is not shown on the zoning map as being located within any district, shall comply with the zoning regulations of the most restrictive adjoining district.

40-3-4 ANNEXED TERRITORY. Any territory hereafter annexed to the municipality shall automatically be in the SR-1, Single-Family Residence District until duly changed by an amendment to this Code; except that the City Council, with the advice of the Zoning Board of Appeals, may annex any territory as any other zoning district or districts herein established if all legal requirements for zoning the property at the time of the annexation and the requirements for amending the Zoning Map by the extension of the zoning district provisions are met. **(See Sec. 40-10-30 for amendments) (See 65 ILCS 5/7-1-47)**

40-3-5 GENERAL PROHIBITION. No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated or reconstructed except in conformity with the provisions of this Code. Similarly, no lot or part thereof shall be used, occupied, or developed except in conformity with the provisions of this Code.

(A) **Agricultural Exemption.** The provisions of this Code shall not be interpreted or administered so as to restrict the erection, maintenance, alteration, or extension of buildings (including farmhouses) or structures used or intended to be used for agricultural purposes on agricultural land except that such buildings or structures shall be required to conform to applicable setback regulations. Whenever a portion of a tract of land ceases to be used primarily for agricultural purposes, all pertinent provisions of this Code shall apply to that portion.

40-3-6 UNLISTED USES PROHIBITED. Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the Zoning Board, following consultation with the Zoning Administrator finds that the unlisted use is similar to and compatible with the listed uses, they may make a written ruling to that effect and classify the use as a use permitted by right. The Board's decision shall become a permanent public record.

40-3-7 TEMPORARY USES. Except as specifically provided otherwise in this Code, no temporary structure shall be used or occupied for any purpose, and no land shall be used for any temporary enterprise, whether for profit or not-for-profit, unless a temporary use permit has been obtained. Applications for temporary use permits shall be treated in the same way as applications for special use permits. A temporary use permit shall be valid for not more than **one (1) year** unless it is properly renewed **(See Section 40-10-29).**

40-3-8 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise:

- (A) Only one principal building or structure shall be permitted on any residential lot; and
- (B) No portion of any minimum area, minimum dimensions, or minimum yards required for any lot, structure, or use shall be counted to satisfy the minimum area, dimensions, or yards requirements for any other lot, structure or use. **(See Sec. 40-8-2)**

40-3-9 ACCESS REQUIRED. No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to, a public street or a private street.

40-3-10 FRONT SETBACKS - CORNER/THROUGH LOTS. Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

40-3-11 FRONT SETBACKS IN CERTAIN BUILT-UP AREAS. Except as specifically provided otherwise, in the Central Business district and in all residential zoning districts, where lots having **fifty percent (50%)** or more of the frontage on one side of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback on that block shall be the average of the existing front set-backs; provided however, that in any built-up area, no front setback shall be less than **fifteen (15) feet**, nor shall any front setback greater than **fifty (50) feet** be required.

40-3-12 YARD INTRUSIONS. To the extent indicated below, the following features of principal buildings may intrude into yards without thereby violating the minimum setback requirements:

<u>FEATURES</u>	<u>MAXIMUM INTRUSIONS</u>
(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	Six (6) feet.
(D) Porches and stoops, if unenclosed, unroofed, and at no higher than two (2) steps above ground level	Six (6) feet.
(E) Balconies, decks, porches	Four (4) feet.
(F) Canopies, roof overhangs	Four (4) feet.

40-3-13 HEIGHT - EXCEPTIONS.

(A) **Necessary appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, water towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations, no more than **fifteen (15) feet**, for the district in which they are located if they comply with all other pertinent ordinances of the City. **(Ord. No. 09-1; 03-17-09)**

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by the street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that is between **two (2) and ten (10) feet** above the level of the adjacent street. **(See Figure 1 at the end of this Code.)**

40-3-14 SEWER AND SEPTIC TANKS. In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) Whenever the public sanitary sewerage system is reasonably accessible (that is, when the distance from the property in question to the nearest public sewer with available capacity does not exceed **one hundred (100) feet**, all sewage shall be discharged into such system whether or not a private sewerage system already exists or is more convenient.

(B) Whenever the public sewerage system is not reasonably accessible, a private sewerage system shall be installed and used. All private sewerage systems shall be designed, constructed, operated, and maintained in conformity with the following requirements:

- (1) Illinois Private Sewage Disposal Licensing Act, **(225 ILCS 225/1 through 225/23)** as amended from time to time; and
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the **Illinois Department of Public Health**, as amended from time to time; and
- (3) Pertinent, current regulation issued by the **Illinois Environmental Protection Agency**; and

- (4) Applicable codes and regulations of the City, particularly the **Subdivision Code** and the **Utilities Code**.

The Administrator shall not issue any Certificate of Zoning Compliance unless, following consultation with the City Engineer, he is satisfied that these requirements will be met.

40-3-15 **ACCESSORY USES - PERMITTED.**

(A) Any accessory use shall be deemed permitted in a particular zoning district if such use:

- (1) meets the definitions of "accessory use" found in **Section 40-2-2**;
- (2) is accessory to a principal structure or use that is allowed in a particular zoning district as permitted or special use; and
- (3) is in compliance with restrictions set forth in **Section 40-3-16**.

(B) If an accessory structure is attached to a principal structure, it shall be considered part of such structure. (**See Definition of "Attached" in Section 40-2-2**)

40-3-16 **ACCESSORY USE RESTRICTIONS.**

(A) **Height.** No accessory use shall be higher than **twenty-five (25) feet** in any Zoning District; provided, there shall be no height limit on accessory structures related to agriculture.

(B) **Schedule.** No accessory use in any zoning district shall be located in any part of any yard (front, side or rear) that is required because of the setback regulations of such district; as provided in **Section 40-3-17** at the conclusion of the Code.

(C) **Yard Coverage.** Accessory uses shall not cover more than **thirty percent (30%)** of a required rear yard.

(D) **Use As Dwelling.** Use of any accessory structure as a dwelling is strictly prohibited throughout the City.

40-3-17 **AREA BULK REGULATIONS.** To facilitate public understanding of this Code, the Area-Bulk Regulation Schedule is hereby adopted and declared to be an integral part of this Code, and it may be amended in the same manner as any other part of this Code. The Schedule is found at the conclusion of this Code.

40-3-18 - 40-3-19 **RESERVED.**

DIVISION II - PLANNED DEVELOPMENTS

40-3-20 **PLANNED DEVELOPMENT DEFINED.** As used in this Division, the term "planned development" or "PD" means a development wherein, in accordance with an approved development plan:

- (A) common open space is reserved;
- (B) various housing types and other structures and uses may be mixed and/or
- (C) overall average density does not exceed the usual zoning district limit.

40-3-21 **OBJECTIVES.** This Section authorizes development of Planned Developments and establishes procedures in order to achieve the objectives enumerated in **Section 40-1-2** and the following objectives:

(A) to provide a regulatory mechanism whereby the City can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the issuance of the necessary zoning and subdivision permits;

- (B) to permit development of a wide variety of housing types and other structures and uses in a single comprehensively planned project;
- (C) to preserve the natural topography, scenic features, mature trees and historic structures existing on sites proposed for development;
- (D) to encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;
- (E) to ensure the provision of usable, common, open space in planned developments, and to spur installation of various amenities therein;
- (F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

40-3-22 COMPLIANCE WITH REGULATIONS GENERALLY REQUIRED. Except as specifically provided otherwise in this Code, planned developments--including all structures and uses therein--shall, at a minimum, be built in conformity with all applicable codes and ordinances, including the Zoning Code and the Subdivision Code.

40-3-23 DISTRICTS WHERE ALLOWED. Planned Developments may be built in any Zoning District, but only upon the issuance of a special use permit by the City Council after a hearing before the Board of Appeals. (See Sec. 40-10-26)

40-3-24 PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS. The Planned Development concept is intended to afford both the developer and the City considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this Section, Planned Developments may deviate from generally applicable Code requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

(A) **Mixed Uses.** Planned Developments may include all types of residential structures and any other uses approved by the Board of Appeals, provided that in approving such mixed uses, the Board of Appeals may attach any conditions necessary to protect the public welfare.

(B) **Lot and Structure Requirements.** In Planned Developments, the Board of Appeals may approve any reasonable deviation from the lot and structure requirements of the particular zoning district so long as the different uses within the PD are appropriately interrelated and property abutting the PD is adequately protected from any potential adverse impacts of the development. "Lot and structure requirements" means minimum individual lot area, width and depth; minimum setbacks; and maximum structure height.

(C) **Accessory Uses.** In PDs the Board of Appeals may allow the developer to disregard the usual restrictions on accessory uses other than the prohibition against using an accessory structure as a dwelling.

(D) **Location of Parking/Loading Spaces.** By permission of the Board of Appeals, off-street parking and loading spaces in PDs need not be located in accordance with generally applicable requirements. The minimum number of such spaces, however, shall not be less than the number required as per **Article V** of this Code.

40-3-25 PROCEDURES FOR PLANNED DEVELOPMENTS. Every applicant for Planed Development approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

- (A) Filing development plan with the Zoning Administrator;
- (B) Review of plans by Plan Commission, if any;
- (C) Provision by the developer of adequate assurance for the completion of required improvements as per the development plan and subdivision regulations;
- (D) Recommendation by Plan Commission; if any;

- (E) Public hearing by the Board of Appeals as per the requirements of **Article X - Administration**;
- (F) Decision of the Board of Appeals regarding approval/rejection of the development plan;
- (G) Recording of development plan with the County Recorder of Deeds.

40-3-26 **APPLICATION; INFORMATION REQUIRED.** Every applicant for approval of a development plan shall submit to the Administrator, in narrative and/or graphic form, the items of information listed below:

40-3-26.1 **WRITTEN DOCUMENTS.**

- (A) Legal description of the total site proposed for development;
- (B) Names and addresses of all owners of property within or adjacent to the proposed Planned Development;
- (C) Statement of the planning objectives to be achieved by the PD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
- (D) Development schedule indicating the approximate date when construction of the PD or stages of the PD can be expected to begin and to be completed;
- (E) Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PD, such as land areas, dwelling units, etc.
- (F) Data indicating:
 - (1) total number and type of proposed dwelling units;
 - (2) gross and net acreage of parcel;
 - (3) acreage of gross and usable open space; and
 - (4) area of any commercial uses.

40-3-26.2 **GRAPHIC MATERIALS.**

- (A) Existing site conditions, including contours at **ten (10) foot** intervals and locations of watercourses, flood plains, unique natural features, and wooded areas;
- (B) Proposed lot lines and plot designs;
- (C) Proposed location, size in square feet and general appearance of all existing and proposed buildings (both residential and non-residential) and other structures and facilities;
- (D) Location and size in acres or square feet or all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;
- (E) Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership--public or private--should be included where appropriate);
- (F) Existing and proposed pedestrian circulation system, including its relationship to the vehicular circulation system and proposed treatments of points of conflict;
- (G) Existing and proposed utility systems, including sanitary sewers, storm sewers, and water, electric, gas and telephone lines;
- (H) General landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips;
- (I) Enough information on land areas adjacent to the proposed PD to indicate the relationship between the proposed development and existing and proposed adjacent areas;
- (J) Any additional information required by the City to evaluate the character and impact of the proposed PD.
- (K) Appropriate seals of the licensed surveyor, engineer or architect.

40-3-27 **CRITERIA CONSIDERED.** The Board of Appeals shall compile a written report which either accepts or rejects the Development Plan. In making their decision, the Board of Appeals shall consider the following criteria:

- (A) The extent to which the proposed development is consistent with the Comprehensive Plan and with the purposes of this Code and of all other applicable codes and ordinances;
- (B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including, but not limited to, the use, lot and building regulations of the district), and the apparent merits, if any, of said deviations.
- (C) Whether the proposed design of the PD makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open space, recreational facilities, preservation of natural features, and so forth;
- (D) The compatibility of the proposed PD with adjacent properties and surrounding area; and
- (E) Any other reasonable criteria that the Board of Appeals may devise.

40-3-28 **DECISION BY BOARD OF APPEALS.** The Board of Appeals shall not approve any PD unless:

- (A) The developer has posted a performance bond or deposited funds in escrow in the amount of the City Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and
- (B) The City Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and
- (C) The proposed PD, as evidenced by the Development Plan, complies with all applicable codes, regulations and ordinances. (Deviations to the extent permitted under **Section 40-3-27** shall not be deemed as noncomplying.)

40-3-29 **CHANGES IN APPROVED PLANS.** No changes shall be made to any approved PD Development Plan, except as follows:

- (A) Minor changes, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.
- (B) All other changes shall require a public hearing before the Board of Appeals.
- (C) No approved change shall have any effect until it is recorded with the County Recorder of Deeds as an amendment to the recorded copy of the Development Plan. (**See Article X - Division V**)

40-3-30 **FAILURE TO BEGIN DEVELOPMENT.** If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the Development Plan shall lapse upon written notice to the applicant from the Zoning Administrator and shall be of no further effect. However, in his discretion and for good cause, the Zoning Administrator may extend for a reasonable time the period for the beginning of construction. If a final Development Plan lapses as per this Section, the following shall be applicable:

- (A) The special-use permit shall be automatically revoked; and
- (B) any zoning permits shall automatically become null and void; and
- (C) all regulations applicable before the PD was approved shall automatically be in full effect.

40-3-31 **MUNICIPAL EXEMPTION.** In conjunction with any existing or proposed development, the City shall be exempt from all of the provisions of this Section.

ARTICLE IV - REGULATIONS FOR SPECIFIC DISTRICTS

DIVISION I - AGRICULTURAL DISTRICT (A-1)

40-4-1 **"A-1" - AGRICULTURAL DISTRICT.** The "A-1" Agricultural District encompasses areas that are presently undeveloped or sparsely developed and that, for various reasons, should remain so for the foreseeable future. Some tracts of land in this district are fertile and relatively level and best suited for agricultural pursuits. Other tracts in this district have such poor soils, steep slopes, inadequate natural drainage, and/or other problems, or are simply so distant from existing developed areas that the provision and maintenance of roads, utilities, and storm water drainage systems would be impractical or burdensomely expensive to the tax-paying public.

40-4-2 **SPECIAL RESTRICTIONS.** In the "A-1" District, only **one (1) principal dwelling** shall be situated on any **one (1) lot**.

40-4-3 **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "A-1" District shall conform to the following requirements:

(A)	Minimum Lot Area	3 Acres
(B)	Minimum Lot Width at the established building line	150 feet
(C)	Minimum Lot Depth	200 feet
(D)	Minimum Setbacks	
	(1) From front lot line	50 feet
	(2) Total for both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	50 feet
(E)	Maximum Building Height	35 feet
	(Does not apply to accessory agricultural structures)	

40-4-4 **PERMITTED USES.** The following uses shall be permitted in the **"A-1" - Agricultural District:**

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Cemeteries.

Government uses of this municipality.

Nurseries, greenhouses, temporary produce stands.

Parks and playgrounds.

Single-family dwellings. **(See Art. V)**

Towers, structures and other facilities designed or intended to be used for the support, enclosure, shelter or protection of distribution equipment utilized by entities engaged in the transmission of telephone messages including but not limited to cellular, personal communications services, special mobile radio transmitters and any other personal wireless service.

Accessory uses in accordance with **Section 40-3-13.**

40-4-5 **SPECIAL USES.** The following uses may be allowed by special-use permit in accordance with **Section 40-10-24**, et seq. of this Code in the **"A-1" - Agricultural District:**

Agricultural implement sales.

Amusement facilities, such as go-cart tracks, archery ranges, etc.

- Animal hospitals.
- Churches and other places of formal worship.
- Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.
- Golf courses, all sizes and types.
- Home occupations. **(See Sec. 40-5-7)**
- Kennels, commercial.
- Manufactured and modular homes.
- Nursing homes, sanitariums.
- Travel trailer parks (not including mobile home parks). **(See Sec. 40-5-2)**
- Truck trailers.
- Utility substations.

40-4-6 RESERVED.

DIVISION II - SINGLE-FAMILY DISTRICTS

40-4-7 "SR-1" - SINGLE-FAMILY RESIDENCE DISTRICT (LARGE LOT). In the "SR-1", Single-Family Residence District, land is principally used for or is best suited for detached, single-family dwellings and related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing single-family neighborhoods, and to promote the development of subdivisions offering a range of new conventionally constructed single-family housing. Other types of residences (mobile homes, manufactured mobile homes, duplexes, apartments, etc.) are prohibited uses in this district.

40-4-8 SPECIAL RESTRICTIONS. In the "SR-1" District, only **one (1)** principal building (single-family dwelling) shall be situated on any **one (1) lot**.

40-4-9 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "SR-1" District shall conform to the following requirements:

(A)	Minimum Lot Area	10,000 sq. ft.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking <u>Per Dwelling Unit</u>	2 spaces
(G)	Maximum Percent Coverage Per Lot	25%

40-4-10 PERMITTED USES. The following uses shall be permitted in the "**SR-1**" - **Single-family Residential District:**

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Single-family dwellings.
 Accessory uses in accordance with **Sections 40-3-15 and 40-3-16**.
 Government uses of this municipality.

40-4-11 SPECIAL USES. The following special uses may be allowed by special-use permit in accordance with **Section 40-10-24 et seq.** of this Code in the **“SR-1” District**:

- Bed and breakfast establishments.
- Cemeteries and mausoleums in conjunction therewith.
- Churches and other places of formal worship.
- Community residences.
- Day care or nursery schools.
- Government uses other than those of the municipality.
- Home occupations. **(See Section 40-5-7)**
- Modular homes. **(See Section 40-2-2)**
- Private recreational areas or campus, when not operated for profit.
- Public libraries, community centers or grounds.
- Railroad rights-of-way and trackage.
- Schools: Public, denominational or private, elementary or high, including playgrounds, garages for school buses, and athletic fields auxiliary thereto.
- Utilities: Electrical substations, gas regulator stations, other public utility distribution facilities, plants and pumping stations.

40-4-12 - 40-4-15 RESERVED.

DIVISION III - SINGLE-FAMILY DISTRICT (SR-2)

40-4-16 “SR-2” - SINGLE-FAMILY DISTRICT (SMALL LOT). The “SR-2”, Single-Family Residence District encompasses areas suitable for single-family dwellings as well as related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing subdivision offering a range of new single-family housing. Other types of residences (mobile homes, manufactured homes, duplexes, apartments, etc.) are permitted in this district by special-use.

40-4-17 SPECIAL RESTRICTIONS. In the “SR-2” District, only **one (1) principal building** (single-family dwelling) shall be situated on any **one (1) lot**.

40-4-18 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the “SR-2” District shall conform to the following requirements:

(A)	Minimum Lot Area	7,000 sq. ft.
(B)	Minimum Lot Width at the established building line	50 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	20 feet
	(3) From either side lot line	7.5 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking <u>Per Dwelling Unit</u>	2 spaces
(G)	Maximum Percent Coverage Per Lot	25%

40-4-19 PERMITTED USES. The following uses shall be permitted in the “SR-2” - Single-family Residential District:

- Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.
- Single-family dwellings.
- Accessory uses in accordance with **Section 40-3-16**.
- Government uses of this municipality.

40-4-20 SPECIAL USES. The following uses may be allowed in the “SR-2” District by special-use permit in accordance with **Section 40-10-24**, to-wit:

- Bed and breakfast.
- Churches and other places of formal worship.
- Community residences, small.
- Duplexes.
- Government uses other than those of the municipality.
- Home occupations. **(See Section 40-5-7)**
- Modular homes. **(See Section 40-2-2)**
- Private recreational areas or campus, when not operated for profit.
- Public libraries, community centers or grounds.
- Railroad rights-of-way and trackage.
- Schools: Public, denominational or private, elementary or high, including playgrounds, garages for school buses, and athletic fields auxiliary thereto.
- Utilities: Electrical substations, gas regulator stations, other public utility distribution facilities, plants and pumping stations.

40-4-21 - 40-4-30 RESERVED.

DIVISION IV - MULTIPLE-FAMILY DISTRICTS (MR-1)

40-4-31 “MR-1” - MULTIPLE-FAMILY RESIDENCE DISTRICT. The “MR-1”, Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of single-family and multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

40-4-32 LOT AND BUILDING REQUIREMENTS. Every principal building in the “MR-1” District shall conform to the requirements indicated below:

NOTE: Detached single-family and two-family dwellings erected in the “MR-1” District shall comply with all applicable regulations of the “MR-1” District.

- | | | |
|-----|--|---|
| (A) | Minimum Lot Area | 10,000 sq. ft.
4,500 sq. ft.
per unit, which-
ever is greater. |
| (B) | Minimum Lot Width at the established building line | 80 feet |
| (C) | Minimum Lot Depth | 100 feet |
| (D) | Minimum Setbacks | |
| | (1) From front lot line | 25 feet |
| | (2) For both side yard lines | 25 feet |
| | (3) From either side lot line | 10 feet |

	(4)	From rear lot line	25 feet
	(5)	From side yard abutting street	25 feet
(E)		Maximum Building Height	35 feet
(F)		Minimum Off-Street Parking Per Dwelling Unit	2 spaces
(G)		Maximum Percent Coverage Per Lot	30%

40-4-33 PERMITTED USES. The following uses shall be permitted in the "MR-1" - Multiple-Family Residential District:

- Any use permitted in the "SR-1" District. (Section 40-4-10)
- Bed and breakfast.
- Community residences, small.
- Duplex (two-family dwellings).

40-4-34 SPECIAL USES. The following uses may be allowed in the "MR-1" District by special-use permit in accordance with Section 40-10-24:

- Any special-use in the "SR-1" District. (See Section 40-4-11)
- Day care center.
- Multi-family (triplex, etc.)
- Nursing homes.
- Utility substations.

40-4-35 - 40-4-36 RESERVED.

DIVISION V - MULTIPLE-FAMILY DISTRICTS (MR-2)

40-4-37 "MR-2" - MULTIPLE-FAMILY RESIDENCE DISTRICT. The "MR-2", Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

40-4-38 LOT AND BUILDING REQUIREMENTS. Every principal building in the "MR-2" District shall conform to the requirements indicated below:

NOTE: Detached single-family and two-family dwellings erected in the "MR-2" District shall comply with all applicable regulations of the "MR-2" District.

(A)	Minimum Lot Area	10,000 sq. ft. 2,500 sq. ft. per unit, which- ever is greater.	
(B)	Minimum Lot Width at the established building line	80 feet	
(C)	Minimum Lot Depth	100 feet	
(D)	Minimum Setbacks		
	(1)	From front lot line	25 feet
	(2)	For both side yard lines	25 feet
	(3)	From either side lot line	10 feet
	(4)	From rear lot line	25 feet
	(5)	From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet	
(F)	Minimum Off-Street Parking Per Dwelling Unit	2 spaces	
(G)	Maximum Percent Coverage Per Lot	30%	

40-4-39 **PERMITTED USES.** The following uses shall be permitted in the “MR-2” - **Multiple-Family Residential District:**
 Any use permitted in the “MR-1” District. (Section 40-4-33)
 Multiple-family dwellings.

40-4-40 **SPECIAL USES.** The following uses may be allowed in the “MR-2” District by special-use permit in accordance with Section 40-10-24:
 Any use permitted as a special use in Section 40-4-34.
 Convenience shops and quick shops (e.g., small drugstore, food store, laundromat).

40-4-41 - 40-4-45 **RESERVED.**

DIVISION VI - MOBILE HOUSING DISTRICT (MH-1)

40-4-46 **“MH-1” - MOBILE HOUSING DISTRICT.** The “MH-1”, Mobile Housing District is primarily intended to provide areas suitable for the placement of manufactured homes on individual lots and for the establishment of mobile home parks. This district is intended to preserve other residential districts for conventionally constructed single-family dwellings.

40-4-47 **MOBILE HOUSING LOT OWNERSHIP.** All manufactured housing or modular units located outside an approved mobile home park shall be located on property owned by the owner of the housing unit.

All units shall meet the Housing and Urban Development Federal Code known as the “National Manufactured Home Construction and Safety Standards” or the “Illinois Mobile Home and Manufactured Housing Safety Act”. All units shall meet all local maintenance codes.

40-4-48 **LOT AND BUILDING REQUIREMENTS, GENERALLY.**

NOTE: Special lot and building requirements are applicable to mobile home parks. (See Section 40-4-51)

(A)	Minimum Lot Area	7,000 sq. ft.
(B)	Minimum Lot Width at the established building line	60 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Maximum Percent Coverage Per Lot	25%
(G)	Minimum Off-Street Parking Per Unit	2 spaces

40-4-49 **PERMITTED USES.** The following uses shall be permitted in the “MH-1” - **Mobile Housing District:**

Any use permitted in the “MR-1” District. (See Section 40-4-33)

Manufactured homes on individual lots and modular homes, provided said units conform to all applicable requirements of the Revised Code. (See Chapter 23)

40-4-57 **SPECIAL RESTRICTIONS.** The following use restrictions shall apply:

- (A) **Retail Only.** Every commercial or service establishment located in this district shall deal directly with consumers.
- (B) **Enclosed Buildings.** All commercial, service and storage activities shall be conducted within completely enclosed structures.
- (C) **Limited Size.** The gross floor area of any commercial or service establishment located in this district shall not exceed **three thousand (3,000) square feet.**
- (D) **No Drive-Ins.** No commercial or service establishment shall offer goods or services directly to customers waiting in parked motor vehicles or sell food or beverages for consumption on the premises in parked motor vehicles. Thus, service stations, drive-in restaurants, etc. are excluded from this district.
- (E) **Access Ways.** Any access way (driveway) to any off-street parking lot or loading berth shall be located at least **ten (10) feet** from any lot line.
- (F) **Refuse Containers.** All refuse generated by any establishment located within this district shall be stored in tightly covered containers placed in visually-screened areas.
- (G) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be provided.
- (H) **Signs.** See Article VI.

40-4-58 **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the

"B-1" District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	10,000 sq. ft.
(B)	Minimum Lot Width	75 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) Total for both side yard lines	15 feet
	(3) From either side lot line	5 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet
(E)	Maximum Structure Height	35 feet
(F)	Off-Street Parking	See Article VII

40-4-59 **PERMITTED USES.** Provided all the use restrictions of this district are observed,

the following uses are permitted:

- Churches and other places of formal worship.
- Clubs and lodges.
- Commercial establishments.
- Community residence, small.
- Government uses of this municipality.
- Home occupations.
- Libraries, museums.
- Medical/dental clinics. (Ord. No. 09-11; 03-03-09)
- Offices.
- Service establishments.
- Accessory uses in accordance with Section 40-3-16.

40-4-60 **SPECIAL USES.** Provided all the use restrictions of this district are observed, the following uses may be allowed by special-use permit.

Dwelling units, if located above the first story.
 Governmental uses other than those of this municipality.
 Quick shop.
 Taverns.
 Utility substations.

40-4-61 - 40-4-62 RESERVED.

DIVISION VIII - CENTRAL BUSINESS DISTRICT (B-2)

40-4-63 DESCRIPTION. The "B-2", Central Business District encompasses the concentrated pedestrian-oriented commercial area of this municipality. Stores and other facilities providing a wide range of retail goods and services to the general public may be located within this district.

- 40-4-64 USE RESTRICTIONS.** The following use restrictions shall apply:
- (A) **Retail Only.** Every commercial or service establishment located in this district shall deal directly with consumers.
 - (B) **Processing Incidental.** Any processing or treatment of goods on any premises must be clearly incidental to the retail business conducted on such premises.
 - (C) **Unenclosed Activities--Special-Use Permit.** In this district, a special use permit is required to conduct any commercial, service or storage activities outside a completely enclosed building.
 - (D) **No Drive-Ins.** No commercial or service establishment shall offer goods or services direct to customers waiting in parked motor vehicles or sell food or beverages for consumption on the premises in parked motor vehicles. Thus, service stations, drive-in restaurants, etc. are excluded from this district.
 - (E) **Refuse Containers.** All refuse generated by any establishment located within this district shall be stored in tightly covered containers placed in visually-screened areas.
 - (F) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be installed.
 - (H) **Signs. See Article VI.**

40-4-65 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "B-2" Central Business District shall conform to the requirements indicated below:

- | | | |
|-----|--|---|
| (A) | Minimum Lot Area | None |
| (B) | Minimum Lot Width at established building line | 30 feet |
| (C) | Minimum Lot Depth | None |
| (D) | Minimum Setbacks | Generally none required except as necessary to achieve compliance with applicable off-street parking and loading requirements. (See Article VII)
However, any lot abutting a residential district shall conform to the front and side setback requirements of such district. |
| (E) | Maximum Building Height | 60 feet |

40-4-66 PERMITTED USES. Provided all the use restrictions of this district (See Section 40-4-64) are observed, the following uses are permitted:

- Auditoriums, meeting rooms, and other places of assembly.
- Clubs and lodges.
- Commercial establishments, except those listed in Section 40-4-67.
- Government uses of this municipality.
- Libraries, museums.
- Offices.
- Service establishments, except those listed in Section 40-4-67.
- Accessory uses in accordance with Section 40-3-16.

40-4-67 SPECIAL USES. Provided all the use restrictions of this district (See Section 40-4-53) are observed, the following uses may be allowed by special-use permit.

Any use that involves commercial, service or storage activities conducted outside completely enclosed buildings.

Any use, such as drive-in restaurants, drive-in banks, service stations, etc., that offers goods or services directly to customers waiting in parked vehicles, or that sells food or beverages for consumption on the premises in parked motor vehicles.

- Churches and other places of formal worship.
- Community residence, large.
- Dwelling units, if located above the first story.
- Governmental uses other than those of this municipality.
- Medical/dental clinics.
- Nursing homes.
- Quick shops.
- Taverns.
- Utility substations.

40-4-68 - 40-4-69 RESERVED.

DIVISION IX - HIGHWAY BUSINESS DISTRICT (B-3)

40-4-70 DESCRIPTION. The "B-3" Highway Business District is intended to accommodate and regulate strip commercial developments and compatible uses. Since such businesses--both retail and wholesale--draw their patrons primarily from the motoring public, they typically require direct access to major streets and large lots for off-street parking and loading.

40-4-71 USE RESTRICTIONS.

- (A) Repairs Indoors. All repair and maintenance services shall be conducted within completely enclosed structures. Storage areas may be open to the sky but shall be enclosed by walls or solid fences at least **eight (8) feet** high.
- (B) Refuse Containers. All refuse generated by facilities located within this district shall be stored in tightly covered containers placed in visually screened areas.
- (C) Screening. Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be installed.
- (D) Parking. See Article VII.
- (E) Signs. See Article VI.

40-4-72 **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the “B-3” Highway Business District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
	(1) From front lot line	50 feet
	(2) Total for both side yard lines	50 feet
	(3) From either side lot line	20 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	50 feet
(E)	Maximum Building Height	45 feet
(F)	Maximum Percent Coverage Per Lot	50%

40-4-73 **PERMITTED USES.** Provided all the use restrictions of this district (**See Section 40-4-71**) are observed, the following uses are permitted:

Any use permitted in the “B-2” district.
Churches and other places of formal worship.
Clubs and lodges.

Commercial establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

- bowling alleys
- furniture and appliance sales
- greenhouses
- lumber and building supplies sales
- miniature golf courses
- manufactured home and recreational vehicles sales
- motor vehicles sales.

Government uses of this municipality.
Offices.

Service establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

- animal hospitals
- banks and other financial institutions
- motels
- motor vehicles services
- restaurants
- service stations (**See Sec. 40-5-4**)

Accessory uses in accordance with Section **40-3-16**.

40-4-74 **SPECIAL USES.** Provided all the use restrictions of this district are observed, the following uses may be allowed by special-use permit:

Freight and bus terminals, and related transportation facilities.

Governmental uses other than those of this municipality.

Research and development facilities not involving explosives, flammable gases, or liquids, or live animals.

Utility substations. (**See Section 40-5-10**)

Warehousing and wholesaling of any goods except explosives, flammable gases, or liquids, or live animals.

40-4-75 **RESERVED.**

DIVISION X - INDUSTRIAL DISTRICT

40-4-76 **"I-1" - INDUSTRIAL DISTRICT.** The "I-1", Industrial District is intended to provide for areas where light industry, research facilities, warehouses, and wholesale businesses may locate without detriment to the remainder of the community. In these areas, a satisfactory correlation of factors required by such uses exists or can be readily achieved.

40-4-77 **USE RESTRICTION.**

(A) **Nuisances Prohibited.** No production, processing, cleaning, servicing, testing, repair, sale, or storage of goods, materials or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission of smoke, emission of toxic gases, excessive glare, and noxious odors.

(B) **Activities Enclosed.** All production, processing, cleaning, servicing, testing or repair activities shall be conducted within completely enclosed buildings. Storage areas may be open to the sky but shall be enclosed by walls or fences (whether solid or chain-link), including gates, at least **eight (8) feet** high.

(C) **Buffer Strips.** Wherever any industrial use located in this district abuts any other district, a **twenty (20) foot** wide view and noise control buffer strip shall be installed. Such buffer strip shall consist of densely planted shrubbery that is at least **five (5) feet** high when planted and that can be expected to reach a height of **ten (10) feet** when full grown.

(D) **Parking. See Article VII.**

(E) **Signs. See Article VI.**

40-4-78 **LOT AND STRUCTURE REQUIREMENTS.**

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at the established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) From any side lot line	25 feet
	(3) From rear lot line	25 feet
	(4) From side yard abutting street	50 feet
(E)	Maximum Structure Height	60 feet
(G)	Maximum Percent Coverage Per Lot	40%

40-4-79 **PERMITTED USES.** Provided all the use restrictions of the **"I-1" Industrial District** are observed, the following uses are permitted: **(See Section 40-4-77)**

Assembly, manufacturing or processing of any commodity from semi-finished materials, provided explosives or live animals are not involved.

Freight and bus terminals and related mass transportation facilities.

Government uses of this municipality.

Research and development facilities not involving explosives, or flammable gases or liquids.

Service stations. **(See Section 40-5-4)**

Towers, structures and other facilities designed or intended to be used for the support, enclosure, shelter or protection of distribution equipment utilized by entities engaged in the transmission of telephone messages including but not limited to cellular, personal communications services, special mobile radio transmitters and any other personal wireless service.

Warehousing or wholesaling of goods, except explosives, flammable gases or liquids, or live animals.

Utility substations. **(See Section 40-5-10)**

Accessory uses in accordance with **Section 40-3-16.**

40-4-80 **SPECIAL USES.** The following uses may be permitted as special-uses in this District by special-use permit in accordance with **Section 40-10-24**, to-wit:

Any permitted use in the **“B-2” or “B-3” District.** (See Sections 40-4-66 and 40-4-73)

Assembly, manufacturing, processing, warehousing, or wholesaling involving explosives, flammable gases, or liquids, or live animals.

Government uses other than those of this municipality.

Junk Yards. (See Section 40-5-6)

Research and development facilities involving explosives, or flammable liquids or gases.

40-4-81 - 40-4-83 **RESERVED.**

DIVISION XI - FLOOD PLAIN DISTRICT

40-4-84 **“O-FP” - FLOOD PLAIN OVERLAY DISTRICT.** The “O-FP”, Flood Plain Overlay District delineates areas in the vicinity of watercourses and tributaries in the Municipality subject to special requirements.

In the absence of flood protection measures, these areas are subject to periodic flooding which may result in injury to or loss of life and property, disruption of private and governmental services, impairment of the municipal tax base, and the need for extraordinary relief measures. The regulations of this Section are intended to restrict permitted development in flood plains to:

- (A) Uses which inherently have low flood damage potential and
- (B) to other uses allowed in the primary zoning districts provided appropriate protective measures have been taken.

40-4-85 **PERMITTED AND/OR SPECIAL USES.** This overlay district has no effect on the classification, whether permitted, special, or prohibited, of uses in the primary zoning districts. Rather, this overlay district imposes additional restrictions on both permitted and special uses.

40-4-86 **ADDITIONAL RESTRICTIONS.** All uses, whether permitted or special, that are located in the area covered by the **“O-FP”, Overlay District** shall not only meet all the applicable requirements of the primary district, but shall also be adequately protected against flood damage. To assure such protection, the Administrator, following consultation with technically qualified persons, may require as necessary:

- (A) Anchorage or addition of weight to structures to resist flotation;
- (B) installation of watertight doors and bulkheads;
- (C) use of special paints, membranes, mortars so as to reduce seepage through walls.
- (D) installation of pumps to lower water levels in structures or to relieve external foundation wall flood pressure;
- (E) reinforcement of walls to resist rupture or collapse caused by water pressure or floating debris;
- (F) installation of valves or controls on sanitary and storm drains so that the drains can be closed to prevent backup of sewage or storm runoff into structures;
- (G) location of electrical equipment and appliances above the level of the regulatory flood elevation;
- (H) location of storage facilities for chemicals, explosives, flammable liquids, toxic substances, etc., above the regulatory flood elevation;
- (I) filling and earth-moving to raise the level of proposed building site above the regulatory flood elevation; and/or
- (J) any other reasonable flood protection measures.

In no case shall the Zoning Administrator approve any proposed flood protection measure which would result in an increase in the volume or velocity of floodwater leaving the lot in question.

(See Chapter 14 for Flood Plain Code)

ARTICLE V - SUPPLEMENTARY ZONING REGULATIONS

40-5-1 **APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome, structures, and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special use permit. But if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-5-2 **RECREATIONAL VEHICLES.** The regulations of this Section do not apply to travel trailers or other recreational vehicles parked in a permitted travel-trailer park that conforms to the requirements of this Code and the City Code. The requirements of paragraphs (A), (C), and (D) do not apply to travel trailers or other recreational vehicles parked on a permitted recreational vehicle sales lot.

(A) Not more than **two (2)** trailers, or other type recreational vehicle per dwelling shall be parked outside of an enclosed garage on any lot. All trailers or other type recreational vehicles shall be placed on a parking surface as defined in **Section 40-7-3(D)** of this Code and in conformity with **Section 40-7-5** of this Code.

(B) No travel trailer or other recreational vehicle shall be used as a dwelling or permanent storage.

(C) No trailer or other recreational vehicle shall be used as an office or for any other commercial purpose.

(D) Travel trailers or recreational vehicles shall be required to have setbacks as required for accessory buildings.

(E) No travel trailer or other recreational vehicle shall be parked on any front yard.

(F) No unlicensed mobile home may be located in a travel trailer or recreational vehicle park.

(G) No trailer or other type recreational vehicle shall be parked on a public street or alley for more than a **seventy-two (72) hour** period.

40-5-3 **BUFFER STRIPS, FENCES, WALLS AND HEDGES.** Buffer strips, fences, walls or hedges used for any purpose shall, in all districts, conform to the following:

(A) Whenever a commercial, multi-family or industrial district abuts a residential district or is across a street, alley or similar obstacle from a residential district, a buffer strip of landscaping and/or other treatment shall be required. If a buffer strip is live landscaping, a temporary artificial screening shall be provided until such time as landscape screening reaches maturity. Width shall be **twenty (20) feet**, except that between areas zoned "I" and the designated zones, the width shall be **thirty (30) feet**.

Where an existing "SR-1" abuts a district requiring a buffer, the minimum setback from the buffer in that district requiring a buffer shall be **ten (10) feet** providing that a street does not come between the districts.

(B) No new permanent barbed wire or electrically charged fence less than **eight (8) feet** in height shall be erected or maintained anywhere except in connection with agricultural uses; when the agricultural use abuts a property line or a public right-of-way, the use of such fencing shall require the issuance of a Special Use Permit.

(C) No fence, wall, or other obstruction shall be erected on or within **three (3) feet** of any alley or public right-of-way; temporary barricades shall require the written permission of the Zoning Administrator.

(D) No fence, wall or other obstruction shall be erected in violation of the **Illinois Drainage Code. (See 70 ILCS Sec. 2-1 through 2-13)**

(E) No fence, wall or other obstruction shall exceed **eight (8) feet** in height in any district except the Industrial District (I) where the maximum height shall not exceed **ten (10) feet**; exemption, planting screen, in addition, in areas near street intersections, special height restrictions shall be applicable to fences, walls, or other obstructions. **(See Section 40-3-14)**

(F) No fence, wall or other obstruction shall be erected in any front yard setback area, with the exception of landscape fences specifically approved by the Zoning Administrator. **(See Definition of Landscape Fence, Section 40-2-2)**

(G) No fence, wall or other obstruction shall be erected on or within **two (2) feet** of a property line without the mutual consent of the abutting property owners; in such instances, an applicant for an Initial Certificate of Zoning Compliance shall include on the application a statement to the effect that abutting property owners are aware of the type and proposed location of the fence, wall or other obstruction to be erected and have given their written consent.

(H) No fence, wall or other obstruction which completely encloses a lot shall be erected without the provision of a gate or similar type of moveable barrier for accessibility.

40-5-4 **SERVICE STATIONS.**

(A) All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.

(B) Every access way shall be located at least **two hundred (200) feet** from the principal building of any fire station, school, public library, church, park, or playground, and at least **thirty (30) feet** from any intersection of public streets.

(C) Every device for dispensing or selling milk, ice, soft drinks, snacks, and similar products shall be located within or adjacent to the principal building.

(D) All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.

(E) Whenever the use of a service station has been discontinued for **twelve (12) consecutive months** or for **eighteen (18) months** during any **three (3) year** period, the Administrator shall order that all underground storage tanks be removed or filled with material approved by the Fire Chief.

(F) A permanent curb of at least **four (4) inches** in height shall be provided between the public sidewalk and the gasoline pump island, parallel to and extending the complete length of the pump island.

40-5-5 **NURSING HOMES AND GROUP HOMES.**

(A) The lot on which any group home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **two (2) acres**.

(B) The lot on which any nursing home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **one and one-half (1.5) acres**.

40-5-6 **JUNK YARDS.**

(A) No part of any junk yard--which includes any lot on which any **three (3)** or more inoperable vehicles are stored--shall be located closer than **five hundred (500) feet** to the boundary of any residential district.

(B) All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely-planted shrubbery at least **eight (8) feet** high and of sufficient density to block the view from adjacent property.

40-5-7 **HOME OCCUPATIONS.**

(A) **Limitations on Use.** A home occupation shall be considered a special-use in any residence district, provided the home occupation is subject to the following limitations.

(1) **Employees.** The use shall be conducted entirely within a dwelling or permitted accessory building and carried on by the inhabitants living there. No more than **one (1)** other individual may be employed who does not reside on the premises.

- (2) **Dwelling Alterations.** In any residential district, a principal residential building shall not be altered—to accommodate a home occupation—in such a way as to materially change the residential character of the building.
- (3) **Floor Space.** The total area used for the home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **three hundred (300) square feet**, whichever is less.
- (4) **Sign Restrictions.** There shall be no exterior advertising other than identification of the home occupation by a sign which shall be attached to the dwelling or the accessory building and shall not exceed **three (3) square feet** in area and shall not be illuminated.
- (5) **Exterior Storage.** There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.
- (6) **Nuisances.** There shall be no offensive noise, nor shall there be vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line. All nuisances are prohibited.
- (7) **Unlawful Storage.** There shall be no storage or use of toxic, explosive or other dangerous or hazardous materials upon the premises.
- (8) **Parking Requirements.** A home occupation, including studios or rooms for instruction, shall provide off-street parking area adequate to accommodate needs created by the home occupation as prescribed in **Section 40-7-8**.
- (9) **Covenants.** The use must be in conformance with all valid covenants and agreements recorded with the County Recorder of Deeds, covering the land underlying the dwelling.
- (10) A home occupation permit may be issued for any use allowed by the Zoning code, providing all other criteria for issuance of a home occupation permit are met. No home occupation permit shall be issued for any other use.

(B) **Permit Required.** A home occupation shall not be permitted without a special-use permit being granted by the Board of Appeals, which shall determine whether or not the proposed home occupation complies with all applicable laws and ordinances.

(C) **Activities Not Covered.** A home occupation permit shall not be required for activities such as telecommuting, involving no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home. As used in this Section, “telecommuting” means working in the home by using a computer terminal connected to a central office or central computer.

40-5-8 SCHOOLS.

(A) The lot on which any school is situated shall have the minimum area indicated below:

<u>Type of School</u>	<u>Minimum Lot Area</u>
Nursery, Day Care Center	One hundred (100) square feet of fenced outdoor play area per child.
Other (elementary, junior high, senior high)	As required by State law (III. Comp. Stat., Chap. 105, Sec. 5/35-8) --normally four (4) acres , plus one (1) additional acre for every one hundred fifty (150) students in excess of two hundred (200) .

(B) The principal building of any school shall be located at least **twenty-five (25) feet** from all lot lines.

40-5-9 **SWIMMING POOLS.**

(A) Every in-ground swimming pool, whether public or private, shall be enclosed by a wall or fence at least **four (4) feet** in height and shall have a gate that shall be locked when the pool is not in use. An above-the-ground pool, **four (4) feet** or higher, need not have a fence with a gate, so long as the ladder is removed when not in use.

(B) No private swimming pool shall be located in any front yard or closer than **ten (10) feet** to any side or rear lot line.

(C) All lights used to illuminate any swimming pool shall be arranged or shielded so as to confine direct light rays within the lot lines to the greatest extent possible.

40-5-10 **UTILITY SUBSTATIONS.** Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, or similar facility shall be deemed a special use, and shall conform to the following regulations:

(A) Every lot on which any such facility is situated shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.

(B) In any residential district, the structure housing any such facility shall be designed and constructed to be compatible with the residential character of the area.

(C) Every such facility shall be screened by close-planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property. Furthermore, if the Administrator determines that the facility poses a safety hazard (for example, if there are exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed behind the planting screen.

40-5-11 **KENNELS.**

(A) Kennels shall be permitted only in the A-1 District.

(B) Every kennel shall be located at least **two hundred (200) feet** from the nearest dwelling, and at least **one hundred (100) feet** from any lot line.

(C) The lot on which any kennel is situated shall have a minimum area of **three (3) acres.** (See Chapter 3 of the Code)

40-5-12 **AGRICULTURAL ACTIVITIES.**

(A) **Farm Animals.** No barn, stable, shed, or other structure intended to shelter farm animals shall be erected closer than **three hundred (300) feet** to any existing dwelling, or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. Similarly, fences shall be erected, or other means shall be taken to prevent farm animals from approaching closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line or residential property, whichever distance is greater.

(B) **Farm Equipment/Commodities.** No agricultural equipment or commodities (including, but not limited to, baled crops, fertilizer, pesticides/herbicides) shall be stored outdoors closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. If said equipment/commodities are stored within a completely enclosed structure, said structure shall be located at least **one hundred (100) feet** from any lot line of residential property.

(C) **Barbed Wire/Electrical Fences.** (See Section 40-5-3(B).)

40-5-13 **LIGHTING CONTROLS.** Any light used for the illumination of signs, swimming pools, or for any other purpose shall be arranged so as to confine the direct light rays away from neighboring residential properties and away from the vision of passing motorist.

40-5-14 PUBLIC BUILDINGS. In any district where municipally owned or other publicly owned buildings are permitted, the following additional requirements shall be met:

(A) In any residential or conservation district, all municipal or other publicly-owned buildings shall be located at least **twenty-five (25) feet** from all property lines.

(B) In any residential, conservation or business district, there shall be no permanent storage of heavy construction or maintenance equipment (such as excavating, road building, or hauling equipment), unless in an enclosed building or enclosed within a solid wall or fence at least **six (6) feet** in height. Such storage areas, maintenance yards, or storage warehouses shall be located at least **twenty-five (25) feet** from any front or side property line.

40-5-15 CHURCHES AND HOUSES OF FORMAL WORSHIP. The following restrictions shall apply to churches no matter if they are permitted uses or special uses:

(A) **Lot Size.** The minimum size of the lot or tract shall be large enough to accommodate the parking requirements of said church building or house of worship (**Section 40-7-8(B)**) and have a minimum frontage on a public street and at the building line of **one hundred fifty (150) feet**. (**Ord. No. 09-1; 03-17-09**)

(B) **Commercial and Residential Uses.** No part of a church or building for religious worship or accessory building shall be used for commercial or residential purposes, except that **one (1) parsonage** may be permitted on the same lot or tract provided the parsonage is located no more than **seventy-five (75) feet** from the principal building for religious worship.

(C) **Property Lines.** Each principal building shall be located at least **twenty-five (25) feet** from all property lines and shall meet all other applicable requirements of the Zoning Code.

(D) **Accessory Buildings.** Accessory buildings shall meet all applicable requirements of the Zone District.

(E) **Accessory Uses.** Permitted accessory uses and functions shall be directly related to and an integral part of the customary religious worship activities except as otherwise provided by applicable provisions. (**See 805 ILCS Sec. 110/0.01 et seq.**)

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ARTICLE VI - SIGN REGULATIONS

40-6-1 **GENERAL PROHIBITION.** Any sign not expressly permitted in this Article shall be deemed prohibited.

40-6-2 **COMPUTATION OF SIGN AREA ALLOWANCE.** Within the limitations and restrictions as further provided in this Article, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

One (1) square foot of sign area per one (1) foot of street frontage or two (2) square feet of sign for each lineal foot of the front width of the business.

provided, however, that no establishment in any district shall display more than **three hundred (300) square feet** of sign on any street front.

40-6-3 **DEFINITION OF SIGN AREA.** As used in this Article, the term "sign area" means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign. **(See Figures 3 and 4 at End of Code)**

40-6-4 **SPECIAL SITUATIONS.**

(A) Except as specifically provided otherwise in this Article, if an establishment has frontage on **two (2)** or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this Article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any **one (1) frontage** a greater area of signs than would be permitted by application of the formula set forth above.

(B) The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

40-6-5 **SIGNS TO BE NON-HAZARDOUS, WELL-MAINTAINED.**

(A) No sign shall be erected, relocated or maintained so as to prevent free access or egress from any door, window, fire escape, or driveway.

(B) No sign shall be erected or maintained in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic control device.

(C) Every sign shall be designed and constructed in conformity with any applicable provisions of the adopted Building Code, if any.

(D) Every sign and appurtenance shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted to prevent rust or deterioration.

40-6-6 **ILLUMINATION.** Illumination of signs is permitted, subject to the following requirements:

(A) No sign shall employ red, yellow, or green lights in such a manner as to confuse or interfere with vehicular traffic.

(B) No sign other than those providing time and temperature information shall have blinking, flashing, or fluttering lights or any other illuminating device which has a changing light intensity, brightness, or color; provided, however, that this provision shall not apply to any message on any electronically operated, changeable sign.

(C) The light from any illuminated sign shall be shaded, shielded, or directed so that it creates neither a nuisance to adjacent property nor a traffic hazard.

40-6-7 **NONCONFORMING SIGNS.** A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this Article or any amendment thereto.

40-6-8 **RESTRICTIONS.** Any nonconforming sign as defined in **Section 40-6-5** that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in **Article VIII** of this Code; provided as follows:

(A) Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;

(B) Whenever any sign is nonconforming solely because it is appurtenant to a nonconforming commercial/industrial use located in the Agricultural District or in any residential district, said sign shall be treated in the same manner as it would be if it were appurtenant to a commercial/industrial use located in any Business District or in the Industrial District.

40-6-9 **STRICTLY PROHIBITED SIGNS.** Except as specifically noted otherwise, henceforth, the following signs and street graphics are strictly prohibited throughout the City:

(A) Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.

(B) Defunct Signs, including the posts or other supports therefor that advertise or identify an activity, business, product, or service no longer conducted on the premises where such sign is located.

(C) Roof-mounted signs, that project or protrude above the highest point of the roof.
(See Sec. 40-6-11) (Ord. No. 08-3; 03-04-08)

40-6-10 **SIGNS PERMITTED IN ANY DISTRICT.** Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the City. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance.
(See Sec. 40-6-2)

(A) **Construction Signs** identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product: Such signs shall not exceed **twenty-four (24) square feet** in area, shall be confined to the site of the construction, and shall be removed within **fourteen (14) days** after the intended use of the project has begun.

(B) **Real Estate Signs**, indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **six (6) square feet**; on other property, such signs shall not exceed **sixteen (16) square feet**. Not more than **one (1)** real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental or lease.

(C) **Political Signs**, announcing candidates seeking public/political office and/or political issues and other pertinent information: In any Agricultural or Residential District, political signs shall not exceed **eight (8) square feet**; in other districts, such signs shall not exceed **thirty-two (32) square feet**. Political signs shall be removed within **seven (7) days** after the election to which they pertain, by the party responsible for their erection.

(D) **Garage Sale Signs**, advertising a garage or yard sale to be held on private residential property: Such signs shall not exceed **four (4) square feet**, and shall not be posted for longer than **five (5) days**.

(E) **Public Interest Signs and Street Banners**, publicizing a charitable or non-profit event of general public interest: In the Agricultural District, and in any Residential District, public interest signs shall not exceed **thirty-two (32) square feet**. Public interest signs and street banners shall be permitted only for **sixty (60) days** before and **seven (7) days** after the event.

(F) **Governmental, Public, and Directional Signs:** Such as traffic control signs; railroad crossing signs; legal notices; signs indicating the location of underground cables; no trespassing

signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones; restrooms, and so forth.

(G) **Institutional Signs** identifying a public, charitable, or religious institution: Such signs shall be located on the premises of such institution, shall not obstruct the vision of motorists, and shall not exceed **twenty-four (24) square feet**.

(H) **Integral Signs** carved into stone or inlaid so as to become part of the building, and containing such information as date of erection, name of building, and memorial tributes.

(I) **Home Occupation Signs**, identifying only the name and occupation of the residents: Home occupation signs shall not be illuminated, and shall not exceed **four (4) square feet**.

(J) **Subdivision Entrance Signs**, identifying a residential subdivision or apartment complex: Such signs shall contain no commercial advertising, and shall not exceed **twenty (20) square feet**.

(K) **Permanent House Numbers and/or Permanent Name of Occupant Signs** located on the lot to which the sign applies: such signs shall not exceed **two (2) square feet** for single-family dwelling, nor **six (6) square feet** for multiple-family dwellings.

(L) **Signs Located in the Interior of Any Building** or within an enclosed lobby or court of any building or group of buildings, provided such signs are designed and located to be viewed exclusively by the patrons or residents of such buildings.

(M) **Mobile/Portable Marquees** will be allowed so long as they have a temporary sign permit to do so and they are used for their active business advertising only and are in a B-1, B-2 or I-1 District. **(Ord. No. 08-3; 03-04-08)**

40-6-11 AGRICULTURAL; RESIDENTIAL DISTRICTS. No sign other than those listed in **Section 40-6-10** shall be erected in the Agricultural District or in any Residential District.

40-6-12 BUSINESS; INDUSTRIAL DISTRICTS. No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in **Section 40-6-2** and **40-6-10**.

Additionally, signs in any Business District or in the Industrial District shall conform to the requirements indicated in the subsections below:

(A) **Flush-Mounted Signs.** No flush-mounted (wall) sign shall:

(1) Project more than **eighteen (18) inches** from the wall or surface to which it is attached; or

(2) Extend above the roof line of the building to which it is attached.

(B) **Window Signs.** Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment.

(C) **Projecting Signs.** No establishment shall display more than **one (1)** projecting sign on any street front. No projecting sign shall:

(1) Project above the roof line of the building to which it is attached; or

(2) Extend below a point **eight (8) feet** above the ground or pavement; or

(3) Project over a driveway or beyond the curblines of any public street; or

(4) Project more than **four (4) feet** from the building to which it is attached; or

(5) Extend to a point above **twelve (12) feet**.

(D) **Canopy or Marquee Signs.** Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs and shall meet the requirements of **Section 40-6-12(A)**. Signs suspended beneath a canopy or marquee shall be considered projecting signs and shall meet the requirements of **Section 40-6-12(C)**.

(E) **Freestanding Signs.** No establishment shall display more than **one (1)** freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations:

(1) No part of any freestanding sign shall intrude into any public right-of-way.

No part of any freestanding sign that extends below a point **ten (10) feet**

above the ground or pavement shall be located closer than **ten (10) feet** from the public right-of-way line.

- (2) The area of any freestanding sign, calculated in accordance with **Section 40-6-3** shall not exceed **one hundred (100) square feet**.
- (3) When attached to its structural supports, no part of any freestanding sign shall extend more than **twenty (20) feet** above the ground or pavement.
- (4) The length or width of any freestanding sign shall not exceed **twelve (12) feet**.

(F) **Billboards.** Billboards and other off-premises advertising signs are strictly prohibited in every district except the Industrial District. No billboard shall:

- (1) Be stacked on top of another billboard; or
- (2) Be located closer than **twenty-five (25) feet** to any lot line or any public right-of-way; or
- (3) Be located closer than **five hundred (500) feet** from any other billboard on the same side of the roadway; or
- (4) Extend more than **twenty (20) feet** above the ground or pavement;
- (5) Exceed **three hundred (300) square feet** in area.

40-6-13 TEMPORARY SIGNS. Temporary signs shall not remain in place for a period of more than **thirty (30) days** except when the Zoning Administrator extends the time period for an additional **thirty (30) days**. Any further time extension shall thereafter be applied for through Board of Appeals and the Board may grant such time extension as seems reasonable and necessary in compliance with this Article. A permit is required for all temporary signs. **(See Sections 40-3-7 and 40-10-29)**

ARTICLE VII - SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS

40-7-1 **APPLICABILITY OF ARTICLE.** Off-street parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

40-7-2 **EXISTING PARKING/LOADING FACILITIES.**

(A) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced below, or if already less than, shall not be further reduced below the requirements and standards for similar new structures or uses.

(B) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, additional off-street parking and loading facilities need not be provided, but parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored.

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, gross floor area, seating capacity, etc., additional parking and loading facilities commensurate with such increase in use-intensity shall be provided.

(D) Whenever the existing use of a structure is changed to a different use, parking or loading facilities shall be provided as required herein for such new use.

40-7-3 **PARKING DESIGN AND MAINTENANCE STANDARDS.**

(A) **Spaces.**

(1) Each required parking space shall be at least **ten (10) feet** wide and **twenty (20) feet** long and shall have at least **seven (7) feet** of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way.

(2) For multi-family, business and industrial uses, markings shall be laid and restored as often as necessary to clearly delineate each parking space.

(B) **Interior Aisles.** Aisles within parking lots in Business and Industrial Districts shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of parking spaces. Aisles designed for two-way traffic shall be at least **twenty-two (22) feet** wide. One-way aisles designed for **sixty (60) degree** parking shall be at least **eighteen (18) feet** wide.

(C) **Access Way.**

(1) Parking areas in the Business and Industrial Districts shall be designed so that ingress to and egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.

(2) No access way to any parking area shall be located within **thirty (30) feet** of any corner formed by the intersection of the rights-of-way of **two (2)** or more streets. At intersections where traffic control devices are installed, the Administrator may increase this requirement as necessary to prevent traffic hazards.

(3) Parking lot access ways (as well as residential driveways) and public streets shall be aligned to form, as closely as feasible, right angles.

(4) The access way to every parking lot located in any business and industrial zoning district shall be at least **twenty-four (24) feet** wide unless two one-way drives, each **twelve (12) feet** wide, are provided.

(5) The access way to every parking area located in any residential zoning district shall be at least **ten (10) feet** wide; but if the parking area contains more than **eight (8) parking spaces** or if the access way is longer than **one hundred (100) feet**, access shall be provided either by one 2-way drive at least **twenty (20) feet** wide or by two 1-way drives, each at least **ten (10) feet** wide.

(D) **Surfacing.** Parking lots shall be graded and improved with a compacted stone base at least **seven (7) inches** thick, or a subsurface matting material, surfaced with at least **two (2) inches** of asphalt, concrete or approved comparable material. Parking lots used exclusively for employees are hereby exempt from these requirements but shall be constructed of an approved dustless surface. These requirements shall not apply to single-family residential. **(Note: "Oil and chip" is not comparable material.) (Ord. No. 09-1; 03-17-09)**

(E) **Lighting.** Any light(s) used to illuminate any parking lot shall be arranged or shielded so as to confine direct light rays within the lot lines of the parking lot to the greatest extent possible and in no case, shall the light(s) shine on or into nearby residences.

40-7-4 LANDSCAPING. In order to reduce heat and glare, to minimize blowing of dust and trash, and to reduce the oppressive visual effects of large open parking areas, landscaping shall be provided and maintained within every parking lot that contains **twenty (20)** or more parking spaces. Parking lots used exclusively for employees are hereby exempt from these requirements but shall be constructed of an approved dustless surface.

(A) A landscaping plan (either a separate document or an element of a more inclusive development plan) shall accompany every application for a Certificate of Zoning Compliance to develop any parking lot that will contain **twenty (20)** or more parking spaces.

(B) The landscaping plan shall include the following information:

- (1) Proposed type, amount, size and spacing of plantings, including trees, shrubbery and ground cover;
- (2) Proposed size, construction materials, and drainage of landscaped islands; and
- (3) Sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation, and pedestrian movement.

40-7-5 LOCATION OF PARKING. All off-street parking shall be located in conformity with the following requirements:

(A) **For Dwellings.**

- (1) Parking spaces accessory to dwellings located in any residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.
- (2) All parking spaces accessory to permitted non-dwelling uses located in the residential zoning district generally shall be located on the same lot as the use served. However, by special use permit, such parking facilities may be located on another parcel within **two hundred (200) feet** of the use served. No commercial vehicle exceeding one ton cargo capacity shall be parked anywhere in a residential district (except for normal loading, unloading, and service call), unless a special use permit has been obtained. No vehicle repair work shall be permitted on any parking lot located in any residential district, i.e., school, church, etc.

(B) **Business And Industrial Districts.**

- (1) Parking spaces accessory to any dwelling located in any business district shall be located within **two hundred (200) feet** of the dwelling. Parking spaces accessory to any other conforming use located in any business or industrial district shall be located within **five hundred (500) feet** of the use served.
- (2) No parking space accessory to any use located in business or industrial district shall be located in any residential district except by special use

permit; and in no case shall any such parking areas extend more than **five hundred (500) feet** into a residential district.

- (3) In any business or industrial district, off-street parking facilities for different buildings or uses may be provided collectively if the total number of spaces so located together is not less than the sum of the separate requirements for each use, and if all regulations governing location of parking spaces in relation to the use served are observed.

40-7-6 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES. All

off-street loading facilities shall conform to the minimum standards indicated below:

(A) **Size Of Space.** Every required off-street loading space shall be at least **twelve (12) feet** wide and **forty-five (45) feet** long exclusive of aisle and maneuver space, and shall have vertical clearance of at least **fourteen (14) feet**. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

(B) **Access Way.** Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least **twelve (12) feet** wide.

(C) **Surfacing.** Every off-street loading area shall be improved with a compacted stone base at least **seven (7) inches** thick, surfaced with at least **two (2) inches** of asphaltic concrete or approved comparable material. **(No "oil and chip")**

(D) **Buffer Strips.** No loading space or area for vehicles over **two (2) ton** cargo capacity shall be developed closer than **fifty (50) feet** to the lot line of any lot located in any residential district or in the Agricultural District unless such space/area is completely enclosed by walls, a solid fence, or closely planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from residential property.

(E) **Location.** Every off-street loading space shall be located on the same parcel of land as the use served, and not closer than **fifty (50) feet** to the intersection of the rights-of-way of **two (2)** or more streets, and not on any required front yard.

40-7-7 COMPUTATION OF REQUIRED PARKING/LOADING SPACES. In computing

the number of parking spaces required by this Code, the Zoning Administrator shall apply the following rules:

(A) In computing parking space requirements based on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. **"Employee parking" means one (1) parking space shall be required per one and one-half (1.5) employees",** unless otherwise stated.

(B) In computing parking or loading space requirements on the basis of building floor area, the **gross** floor area shall be used.

(C) Whenever it is necessary to translate gross parking lot area into number of parking spaces, **three hundred fifty (350) square feet** of gross area shall be deemed **one (1) parking space**.

(D) If computation of the number of parking or loading spaces required by this Code results in a fractional space, any fraction of **one-half (.5)** or more shall be counted as **one (1) space**.

(E) No space or portion thereof needed to satisfy the minimum applicable requirement for number of off-street parking or loading spaces shall be counted as part of the off-street parking or loading spaces required for another structure or use.

40-7-8 NUMBER OF PARKING AND LOADING SPACES REQUIRED. Off-street

parking and loading spaces shall be provided as indicated in tabular form below. For any use that is not listed in the table, the same amount of parking and loading space shall be provided as is required for the most similar listed use. The Zoning Administrator shall make the determination of similarity:

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
(A) <u>Dwellings, Lodgings:</u>		
Motels, Boarding	1 space per lodging unit, plus employee parking	1 space if the use has houses 20,000 sq. ft. or more of floor area
Mobile homes & Immobilized homes	2 spaces per unit	Not Applicable
Multi-family dwellings	2 spaces per dwelling unit	Not Applicable
Single-family & two-family dwellings	2 spaces per dwelling unit	Not Applicable
Manufactured Home	2 spaces per dwelling unit	Not Applicable
(B) <u>Educational, Institutional, Recreational:</u>		
Churches, assembly halls	1 space per 4 seats in the largest seating area	Not Applicable
Libraries, museums	1 space per 500 sq. ft. of floor area	On review by the Administrator
Nursing Homes	1 space per 5 beds plus 1.5 spaces per employee on the major shift	To 50,000 sq. ft. of floor area..1 space; 50,001 – 100,000 sq. ft...2 spaces
Schools		
Elementary and Junior High	1 space for every 20 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator
Senior High	a space for every 4 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator
(C) <u>Commercial, Office, Service:</u>		
Note: All commercial and service uses, unless specifically indicated otherwise below.	1 space per 300 sq. ft. of floor area	To 10,000 sq. ft. of floor area...1 space; more than 10,000 sq. ft...1 space plus 1 additional space per 50,000 sq. ft. of floor area in excess of 10,000 sq. ft.

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
Financial Institutions		
Walk-in	1 space per 300 sq. ft. of floor area, plus employee parking	(Both walk-in and drive-in): To 30,000 sq. ft. of floor area...none required; 30,001 to 100,000 sq. ft...1 space
Drive-in	5 spaces per teller window	
Beauty and Barber shops	2 spaces per chair, plus employee parking	Not Applicable
Bowling Alleys	4 spaces per bowling lane plus additional spaces as required herein for affiliated uses such as restaurants and taverns	Not Applicable, except as required for affiliated uses
Car Wash	3 spaces per wash lane	Not Applicable
Furniture and appliance stores	1 space per 600 sq. ft. of floor area	To 25,000 sq. ft. of floor area...2 spaces; more than 25,000 sq. ft. of floor area... 2 spaces, plus 1 additional space per 25,000 sq. ft. of floor area in excess of 25,000 sq. ft.
Home occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling	Not Applicable
Offices generally, but not medical/dental offices	1 space per 300 sq. ft. of floor area	To 30,000 sq. ft. of floor area...none required. 30,001-100,000 sq. ft...1 space
Offices, medical/dental	1 space per 200 sq. ft. of floor area or 3 spaces per professional, whichever is greater.	Not Applicable
Mortuaries	1 space per 5 seats plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room	1 space per 10,000 sq. ft. or more of floor area

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
Restaurants; refreshment stands Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	(Both sit-down and drive-in): 1 space per structure having 10,000 sq. ft. or more floor area
Drive-in	1 space per 25 sq. ft. of floor area	
Service stations	2 spaces per service stall, plus employee parking	Not Applicable
Taverns	1 space per 2 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more of floor area
Theaters Indoor Drive-In	1 space per 4 seats On review by the Administrator	Not Applicable
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. of enclosed floor area plus: Up to 10,000 sq. ft. of open lot area devoted to sale/display of vehicles...1 space 2,500 sq. ft. of open lot area. Above 10,000 sq. ft...4 spaces plus 1 additional space per 5,000 sq. ft. of open lot area in excess of 10,000 sq. ft.	To 25,000 sq. ft. of floor area and open lot area...2 More than 25,000 sq. ft. of floor area and open lot area...2 spaces, plus 1 additional space per 25,000 sq. ft. in excess of 25,000 sq. ft.
(D) <u>Industrial:</u>		
Any manufacturing, warehousing, or other industrial use	Employee parking of 1 space per 1.5 employee; plus 1 space per company vehicle, plus 1 visitor space per employees on the major shift	To 20,000 sq. ft. of floor area...1 space; 20,001-50,000 sq. ft...2 spaces; 50,001-90,000 sq. ft...3 spaces; above 90,000 sq. ft...3 spaces plus 1 additional space per 50,000 sq. ft. of floor area in excess of 90,000 sq. ft.

ARTICLE VIII - NONCONFORMITIES

40-8-1 NATURE OF NONCONFORMITIES. The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaking of parking facilities, the creation of nuisances, and/or the lowering of property values. **The regulations in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.**

40-8-2 NONCONFORMING LOTS. If the Zoning Board of Appeals approves a variance for any vacant lot that does not conform to **one (1)** or more of the lot size (area dimensions) requirements of the district in which it is located, that lot may, nonetheless, be developed for any use permitted in that district if such vacant lot:

- (A) was recorded in the office of the County Recorder of Deeds prior to the effective date of this Code (or pertinent amendment thereto);
- (B) has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by the applicable zoning code or other ordinances; and
- (C) is at least **fifty (50) feet** wide.

40-8-2.1 NON-URBAN AND RESIDENTIAL DISTRICTS. In the Agricultural District and in any residential district, one single-family dwelling and related accessory structure, but no other use, may be erected on any vacant nonconforming lot of the type described above provided all the bulk regulations of the particular district are observed.

40-8-2.2 BUSINESS AND INDUSTRIAL DISTRICTS. In the Industrial District and in any business district, any structure permitted in the particular district may be erected on any vacant nonconforming lot of the type described above if the bulk requirements of that district are met.

40-8-2.3 TWO OR MORE LOTS IN COMMON OWNERSHIP. If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum lot width, depth, and area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code. **(See Section 40-3-8)**

40-8-3 NONCONFORMING STRUCTURES. Any otherwise lawful structure which exists on the effective date of this Code, but which could not be erected under the terms of this Code because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot, may lawfully remain, subject to the following provisions:

- (A) **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.
- (B) **Enlargement, Alterations.** A nonconforming structure shall not be enlarged or altered in any way which increases its nonconformity.
- (C) **Relocation.** A nonconforming structure shall not be moved unless, after relocation, it will conform to all the regulations of the district in which it is situated.

(D) **Reconstruction.** No structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds **fifty percent (50%)** of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion.

The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

As an alternative, the market value may be determined by the Administrator by using the **"state equalized assessed value"** multiplied by the number **three (3)**.

The provisions of paragraph (D) shall not apply to single-family dwellings.

40-8-4 NONCONFORMING USES OCCUPYING A STRUCTURE. If any lawful use occupying a structure exists on the effective date of this Code, such use may lawfully continue, subject to the following provisions:

(A) **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B) **Enlargement, Alteration, Reconstruction, Relocation.** No structure housing a nonconforming use shall be enlarged, structurally altered, reconstructed or relocated unless the use of the structure is changed to a permitted use.

(C) **Extension of Use.** No nonconforming use may be extended to any part(s) of the structure not intended or designed for such use, nor shall the nonconforming use be extended to occupy any land outside such structure.

(D) **Change of Use.** A nonconforming use occupying a structure may be changed to a similar use, to a more restrictive use, or to a conforming use. Such use shall not thereafter be changed to a less restrictive use.

(E) **Discontinuance of Use.** When a nonconforming use of a structure or of a structure and premises in combination is discontinued for **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

40-8-5 NONCONFORMING USE OF LAND. Any lawful use of land existing on the effective date of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

(A) **Intensification or Extension of Use.** A nonconforming use of land shall not be intensified, or extended to occupy a greater area of land than was occupied by such use on the effective date of this Code.

(B) **Relocation.** No nonconforming use of land shall be moved, in whole or in part, unless such use, upon relocation, will conform to all pertinent regulations of the district in which it is proposed to be located.

(C) **Change of Use.** Whenever a nonconforming use of a building has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

(D) **Discontinuance.** When a nonconforming use of land is discontinued for a period of **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, it shall not thereafter be resumed, and any subsequent use of such land shall conform to the applicable district regulations. Any discontinuance caused by government action and without any contributing fault by the owner or operator shall not be counted in calculating the length of discontinuance.

40-8-6 **NONCONFORMITIES UNDER PERMIT AUTHORITY.** The regulations of this Article shall not apply to any change in an existing structure or to any change in the use of a structure or of land for which a permit was issued prior to effective date of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is completed within a reasonable time.

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

40-9-1 **ZONING ADMINISTRATOR.** The office of Zoning Administrator of this municipality is hereby established. He shall be appointed by the Mayor with the advice and consent of the City Council for a term of **one (1) year**. The Zoning Administrator shall be the executive head of this office.

40-9-2 **DUTIES.** The Zoning Administrator is hereby authorized and directed to diligently administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following duties:

- (A) To review applications pertaining to land, structures and the uses of land and/or structures;
- (B) To issue or deny initial and final certificates of zoning compliance;
- (C) To supervise inspections of land, structures, and the uses of land and/or structures to determine compliance with this Code, and where there are violations, to initiate appropriate action to secure compliance;
- (D) To receive, file and forward to the Board of Appeals all applications for variances and appeals;
- (E) To receive and file all applications for amendments and special use permits;
- (F) To maintain up-to-date records of this Code including, but not limited to, district maps, certificates of zoning compliance, special use permits, variances, interpretative decisions of the Board of Appeals, amendments and all applications related to any of these matters;
- (G) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the City Council at least once each year;
- (H) To cause copies of this Code (including the district map) and any amendments thereto to be printed from time to time, as necessary; and
- (I) To provide information to the general public on topics related to this Code; and
- (J) To republish the zoning district map not later than March 31st if any rezonings or annexations have been approved during the preceding calendar year. **(See Sec. 40-3-3)**

40-9-3 **INITIAL CERTIFICATES OF ZONING COMPLIANCE.** Upon the effective date of this Code, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until an initial certificate of zoning compliance has been issued. The Administrator shall not issue an initial certificate of zoning compliance unless he determines that the proposed activity conforms to the applicable provisions of this Code.

40-9-4 **ZONING APPLICATION.** Every applicant for an **Initial Certificate of Zoning Compliance** shall submit to the Administrator, in graphic and/or narrative form, all the items of information listed below that are applicable to the particular project. The Administrator shall decide which items are applicable. **(NOTE: Filing fee required in Section 40-9-14.)**

ITEMS OF INFORMATION:

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed lot, structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operations, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structures, and its relationship to existing adjacent uses or structures;
- (E) Area and dimensions of the site for the proposed structure or use;

- (F) Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height, setbacks, and lot coverage of the proposed structures;
- (I) Number and size of proposed dwelling units, if any;
- (J) Location and number of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing and proposed utilities, whether public or private; and/or
- (L) Location and square footage of existing and proposed signs by type and class.

40-9-5 **DURATION OF CERTIFICATE.** **Initial Certificates of Zoning Compliance** shall be valid for **one (1) year**, or until revoked for failure to abide by a corrective action order. The Administrator may renew **Initial Certificates of Zoning Compliance** for successive **one (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work. **(See Sec. 40-9-7)**

40-9-6 **RELATIONSHIP TO BUILDING PERMITS.** Upon the effective date of this Code, no building permit for the erection, enlargement, extension, alteration, or reconstruction of any structure shall be issued until the applicant for such permit has properly obtained an initial certificate of zoning compliance pertaining to such work.

The City in compliance with the **Illinois Architecture Practice Act of 1989** and effective **January 1, 1992 (See 225 ILCS Sec. 305/1 et seq.)** requires that all new construction and structural renovations of buildings used by the general public, including multiple housing, but excluding one- and two-family residences, shall require architectural plans with an architect's seal from a licensed architect.

40-9-7 **FINAL CERTIFICATES OF ZONING COMPLIANCE.** No lot or part thereof that has been recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used, occupied or put into operation until a certificate of zoning compliance has been issued. The Administrator shall not issue a final certificate of zoning compliance until it has been determined, **by inspection**, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with approved plans. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code.

40-9-8 **CORRECTIVE ACTION ORDERS.** Whenever the Zoning Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon is in violation of this Code, he shall so notify the responsible party, and shall institute appropriate measures to secure compliance.

40-9-9 **CONTENTS OF ORDER.** The order to take corrective action shall be in writing and shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement indicating the nature of the violation;
- (C) A statement of the remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (F) The date by which an appeal of the correction order must be filed, and a statement of the procedure for so filing; and

(G) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

40-9-10 SERVICE OF ORDER. A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

- (A) Served upon him personally;
- (B) Sent by certified mail to his last known address; or
- (C) Posted in a conspicuous place on or about the affected premises.

40-9-11 STOP ORDERS. Whenever any work being done in violation of an **Initial Certificate of Zoning Compliance**, the Administrator's corrective action order may state that the violation be stopped immediately. In such case, the corrective action order is equivalent to a stop order. **(See Sec. 40-9-9)**

40-9-12 EMERGENCY MEASURES. Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-9-13 COMPLAINTS. Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40-9-14 FEES. The City Council establishes the following schedule of fees for the various permits and procedures listed in this Code. The fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the applicant to the City Clerk as follows: (All fees waived the **first (1st) year** from the effective date of this Zoning Code.)

(A) **Zoning Occupancy Fees.** The City has determined not to charge any zoning occupancy fees. **(Ord. No. 09-1; 03-17-09)**

(B) **Board of Appeals Fees:**

Interpretation of Code (Appeal)	\$80.00
Special-Use Permit	\$80.00
Variance Permit	\$80.00
Amendments	\$80.00

(Ord. No. 08-5; 03-04-08)

40-9-15 PENALTIES.
 (A) Any person who is convicted of a violation of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs. Each day on which a violation continues shall be considered a separate offense.

(B) Nothing contained in this Section shall prevent the City from taking any other lawful action that may be necessary to secure compliance with this Code.

ARTICLE X - SPECIAL PROCEDURES AND PERMITS

DIVISION I - BOARD OF APPEALS

40-10-1 **ZONING BOARD OF APPEALS.** The Zoning Board of Appeals is hereby established in accordance with Illinois law. The Zoning Board of Appeals shall hereinafter be referred to as the Board of Appeals. (See 65 ILCS 5/11-13-3)

40-10-2 **MEMBERSHIP, ELECTION, COMPENSATION.** The Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within the City. Each Board member shall be elected. **One (1)** of the members so elected shall be named as Chairman at the time of his/her election to be elected by the Board members. The Board of Appeals shall select **one (1)** of its members to be the vice-chairman and **one (1)** the secretary. Each Board member shall receive compensation as established by the City Council. (Ord. No. 09-1; 03-17-09)

40-10-3 **TERM OF OFFICE - VACANCIES.** Every member of the Board of Appeals, which was established pursuant to the former Zoning Code shall be entitled to serve on the Board of Appeals until the election and qualification of the initial elected Board of Appeals, whereupon the terms of all sitting members of the Board of Appeals shall expire.

Three (3) persons elected to the Board of Appeals on or after the effective date of this Code at the initial election shall hold office for **four (4) years** from the date of his/her election, and **four (4) persons** elected to the Board of Appeals at the initial election shall hold office for **two (2) years**; thereafter all terms shall be **four (4) years**.

Removal of any member of the Board of Appeals shall be in compliance with State Statutes. Vacancies on the Board of Appeals shall be filled for the unexpired term of the member whose place has become vacant in the manner provided for by State Statutes. (Ord. No. 09-1; 03-17-09)

40-10-4 **MEETING--QUORUM.** All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Board of Appeals may determine. All Board of Appeals meetings shall be open to the public. The Board of Appeals may adopt their own rules of meeting procedures consistent with this Code and the applicable Illinois Statutes. The Board of Appeals may select such officers as it deems necessary. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. **Four (4) members** of the Board of Appeals shall constitute a quorum, and the affirmative vote of at least **four (4) members** shall be necessary to authorize any Board of Appeals action. (See Sec. 40-10-6 for vote on decisions of Board of Appeals.)

40-10-5 **RECORDS.** The Board of Appeals shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or recommendation of the Board of Appeals shall be filed immediately with the City Clerk and shall be a public record.

40-10-6 **DECISIONS.** The concurring vote of **four (4) members** of the Board of Appeals shall be necessary to grant a variance or special-use permit. The authorization of the Board of Appeals shall be by written letter and shall contain its findings of fact. A copy shall be forwarded to the City Clerk.

40-10-7 **PERIOD OF VALIDITY.** No decision by the Zoning Board of Appeals granting a variance or special-use permit shall be valid for a period longer than **twelve (12) months** from the date of such decision unless (1) an application for a zoning certificate is obtained within such period and construction, moving, remodeling, or reconstruction is started, or (2) an occupancy certificate is obtained, and a use is commenced. However, the Board of Appeals may grant additional extensions of time not exceeding **one hundred eighty (180) days**, each upon written application made within the initial **twelve (12) month** period without further notice or hearing but said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

40-10-8 **FINALITY OF DECISIONS OF THE BOARD OF APPEALS.** All decisions of the Board of Appeals shall in all instances be the final administrative determination and shall be subject to review by a court in the manner provided by applicable **Illinois Compiled Statutes**. No applicant shall apply for the same or identical request for a period of **one (1) year** unless the facts and/or request have substantially changed.

40-10-9 **OFFICE OF THE SECRETARY OF THE BOARD OF APPEALS.** The Secretary of the Board of Appeals shall be appointed by the Board of Appeals to serve until a successor is appointed. The Secretary shall record the minutes of the Board of Appeal's proceedings and actions, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact. The Secretary shall perform such other duties as may be assigned from time to time by the Board of Appeals.

40-10-10 - 40-10-11 **RESERVED.**

DIVISION II - APPEALS

40-10-12 **NATURE OF AN APPEAL.** Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Board of Appeals on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law and the provisions of this Division. **(See 65 ILCS 5/11-13-12)**

40-10-13 **FILING, RECORD TRANSMITTAL.** Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. Every appeal shall also be filed with the **Soil and Water Conservation District** pursuant to State law. Not more than **five (5)** working days after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. **(See 65 ILCS 5/11-13-12) (See 70 ILCS 405/22.02A)**

40-10-14 **STAY OF FURTHER PROCEEDINGS.** An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board of Appeals after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Board of Appeals or the Circuit Court grants a restraining order for due cause and so notifies the Administrator. **(See 65 ILCS 5/11-13-12)**

40-10-15 **PUBLIC HEARING, NOTICE.** The Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the

time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By publication in a newspaper of general circulation within this municipality; and
- (B) By certified mail to the applicant; and,
- (C) By first-class mail to all owners of property contiguous to any property affected by

the appeal.

(See 65 ILCS 5/11-13-12)

40-10-16 **DECISION BY BOARD OF APPEALS.** The Board of Appeals shall render a decision on the appeal within **thirty (30) days** after the hearing therein. The Board of Appeals may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from the extent and in the manner that they deem appropriate. In so doing, the Board of Appeals has all the power of the Administrator. (See 65 ILCS 5/11-13-3 and 5/11-13-12)

ED. NOTE: The Board of Appeals is delegated the task of hearing appeals from the decisions of the zoning administrator or other official charged with enforcement of an ordinance passed pursuant to the Zoning Enabling Act. This may, for example, entail determining whether there has been a discontinuance of a nonconforming use. It is important for the applicant to note the appeal process because of the requirement of exhaustion of administrative remedies before suit is filed as well as the more obvious reason of using a less expensive administrative process for correcting a mistake or error which may have been made by the zoning administrator. (See 65 ILCS 5/11-13-3)

40-10-17 **RESERVED.**

DIVISION III - VARIANCES

40-10-18 **VARIANCES.**

(A) A variance is a relaxation of the requirements of this Code that are applicable to a particular lot or structure.

(B) A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance, it is an amendment, and should be granted only as provided for in **Section 40-10-30**.

40-10-19 **APPLICATION.** Every application for a variance shall be filed with the Administrator on a prescribed form. Every variance application shall also be filed with the **Soil and Water Conservation District** as per State law. The Administrator shall promptly transmit said application, together with any device he might wish to offer, to the Board of Appeals. The application shall contain sufficient information to allow the Board of Appeals to make an informed decision and shall include, at a minimum, the following: **(NOTE: Filing fee required.) [See 70 ILCS 405/22.02(A)]**

- (A) Name and address of the applicant;
- (B) Location of the structure/use for which the variance is sought;
- (C) Brief description of adjacent lots, structures, and/or uses;
- (D) Brief description of the problems/circumstances engendering the variance request;
- (E) Brief, but specific, explanation of the desired variance;
- (F) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and
- (G) Any other pertinent information that the Administrator may require.

40-10-20 **PUBLIC HEARING, NOTICE.** The Board of Appeals shall hold a public hearing on each variance request within **sixty (60) days** after the variance application is submitted to them. At the hearing any interested party may appear and testify either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed variance shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing;

- (A) By certified mail to the applicant and
- (B) By publication in a newspaper of general circulation within the municipality and,
- (C) By first-class mail to all owners of property contiguous to the property affected by the proposed variance. **(See 65 ILCS 5/11-13-7)**

40-10-21 **STANDARDS FOR VARIANCES.** The Board of Appeals shall not recommend any variance unless they find that the proposed variance is consistent with the general purposes of this Code, and that the strict application of the district requirements would result in great practical difficulties of hardship to the applicant. More specifically the Board of Appeals shall not decide upon a variance unless they determine, based upon the evidence presented to them, that:

- (A) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; and
- (B) The plight of the owner is due to peculiar circumstances; and
- (C) The variance, if granted, will not alter the essential character of the locality. **(See 65 ILCS 5/11-13-4 and 5/11-13-5)**

[NOTE: A variation shall be permitted only if in the judgment of the Board of Appeals sustains each of the three conditions above.]

40-10-22 **DECISION BY BOARD OF APPEALS.** The Board of Appeals shall decide on every variance request within **thirty (30) days** after the final hearing thereon. A copy of the Board of Appeal's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. The Board of Appeals shall specify the terms of relief recommended (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Board of Appeal's reasons for recommending or denying any requested variance. **(See 65 ILCS 5/11-13-5 and 5/11-13-11)**

40-10-23 **RESERVED.**

DIVISION IV - SPECIAL USES

40-10-24 **SPECIAL-USE PERMITS.** This Code divides the municipality into various districts and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation and other factors. Such "special uses" require careful case-by-case review and may be allowed only after review and approval by the Board of Appeals. **(See 65 ILCS 5/11-13-1.1)**

40-10-25 **APPLICATION.** Every applicant for a special-use permit shall submit to the Zoning Administrator in narrative and/or graphic form, the items of information enumerated below. The Administrator shall promptly transmit the completed application, together with any comments or recommendation he might have, to the Board of Appeals for further consideration. **(NOTE: Filing fee required in Section 40-9-14)**

ITEMS OF INFORMATION:

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structure, and its relationship to existing uses of structures on adjacent lots;
- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height and setbacks of the proposed structure;
- (I) Number and size of the proposed dwelling units, if any;
- (J) Number and location of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (L) Any other pertinent information that the Administrator may require;
- (M) Location of any signs.

40-10-26 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every special-use permit application within **sixty (60) days** after the application is submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed special-use shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By certified mail to the applicant; and,
- (B) By publication in a newspaper of general circulation within this municipality.
- (C) By first-class mail to all owners of property contiguous to the property affected by the proposed special-use request. **(See 65 ILCS 5/11-13-6)**

40-10-27 BOARD'S DECISION, FACTORS CONSIDERED. Within **thirty (30) days** after the public hearing, the Zoning Board of Appeals shall make a decision and shall consider the following factors:

- (A) Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;
- (B) Whether the proposed special use is consistent with this municipality's comprehensive plan, if any;
- (C) The effect the proposed special use would have on the value of neighboring property and on this municipality's overall tax base;
- (D) The effect the proposed special use would have on the public utilities and on the traffic circulation on nearby streets; and
- (E) Whether there are any facilities near the proposed special use (such as schools or hospitals) that require special protection. **(See 65 ILCS 5/11-13-7)**

40-10-28 DECISION - FINDINGS OF FACTS. The Board of Appeals shall reach a decision on every special-use permit application within a reasonable time after public hearing. In accordance with State law, the Board of Appeals shall specify the terms and conditions of the permit to be granted (if any) in one statement, and **their findings of fact in another statement**. The finding of fact shall be responsive in the decision-making factors listed in the preceding section and shall clearly indicate the Board of Appeal's reasons for granting, with or without modifications and/or conditions, or denying the requested special-use permit. **(See 65 ILCS 5/11-13-1.1 and 5/11-13-11)**

[ED. NOTE: The applicants and property owners for a variation or special-use should review Sec. 5/11-13-7A of the Illinois Compiled Statutes relative to subpoenas for persons to appear at the zoning hearings.]

40-10-29 **TEMPORARY USE PERMITS: PROCEDURE FOR.** As set forth at **Section 40-3-7**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The Board of Appeals shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

DIVISION V - AMENDMENTS

40-10-30 **AMENDMENTS.** The City Council may amend this Code in accordance with State law and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the City Council, the Board of Appeals, the Plan Commission, the Zoning Administrator or any party in interest. **(See 65 ILCS 5/11-13-14)**

40-10-31 **FILING.** Every proposal to amend this Code shall be filed with the Zoning Administrator on a prescribed form. Every amendment proposal shall also be filed with the **Soil and Water Conservation District** pursuant to State law. The Administrator shall promptly transmit the proposal, together with any comments or recommendations he might wish to make to the Board of Appeals for a public hearing. **(NOTE: Filing fee required.) (See 70 ILCS 405/22.02(A))**

40-10-32 **PUBLIC HEARING - NOTICE.** The Board of Appeals shall hold a public hearing on every amendment proposal within **sixty (60) days** after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

- (A) By certified mail to the applicant; and,
- (B) By publication in a newspaper of general circulation within the municipality.
- (C) By first-class mail to all owners of property contiguous to the property affected by the proposed amendment. **(See 65 ILCS 5/11-13-14)**

40-10-33 **ADVISORY REPORT - FINDINGS OF FACT.** Within **thirty (30) days** after the public hearing, the Board of Appeals shall submit their advisory report to the City Council. The report shall state the recommendations of the Board of Appeals regarding adoption of the proposed amendment and their reasons therefor. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Board of Appeals shall include in their advisory report findings of fact concerning each of the following matters:

- (A) Existing use and zoning of the property in question;
- (B) Existing uses and zoning of other lots in the vicinity of the property in question;
- (C) Suitability of the property in question for uses already permitted under existing regulations;
- (D) Suitability of the property in question for the proposed use;
- (E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned.

40-10-34 **ACTION BY CITY COUNCIL.** The City Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the advisory report of the Board of Appeals. Without further public hearing, the City Council may approve or disapprove any proposed amendment or may refer it back to the Board of Appeals for further consideration by simple majority vote of all the members then holding office.

40-10-35 **WHEN TWO-THIRDS MAJORITY VOTE IS REQUIRED.** The favorable vote of at least **two-thirds (2/3)** of the members of the City Council is required to pass an amendment to this Code in each of the following instances:

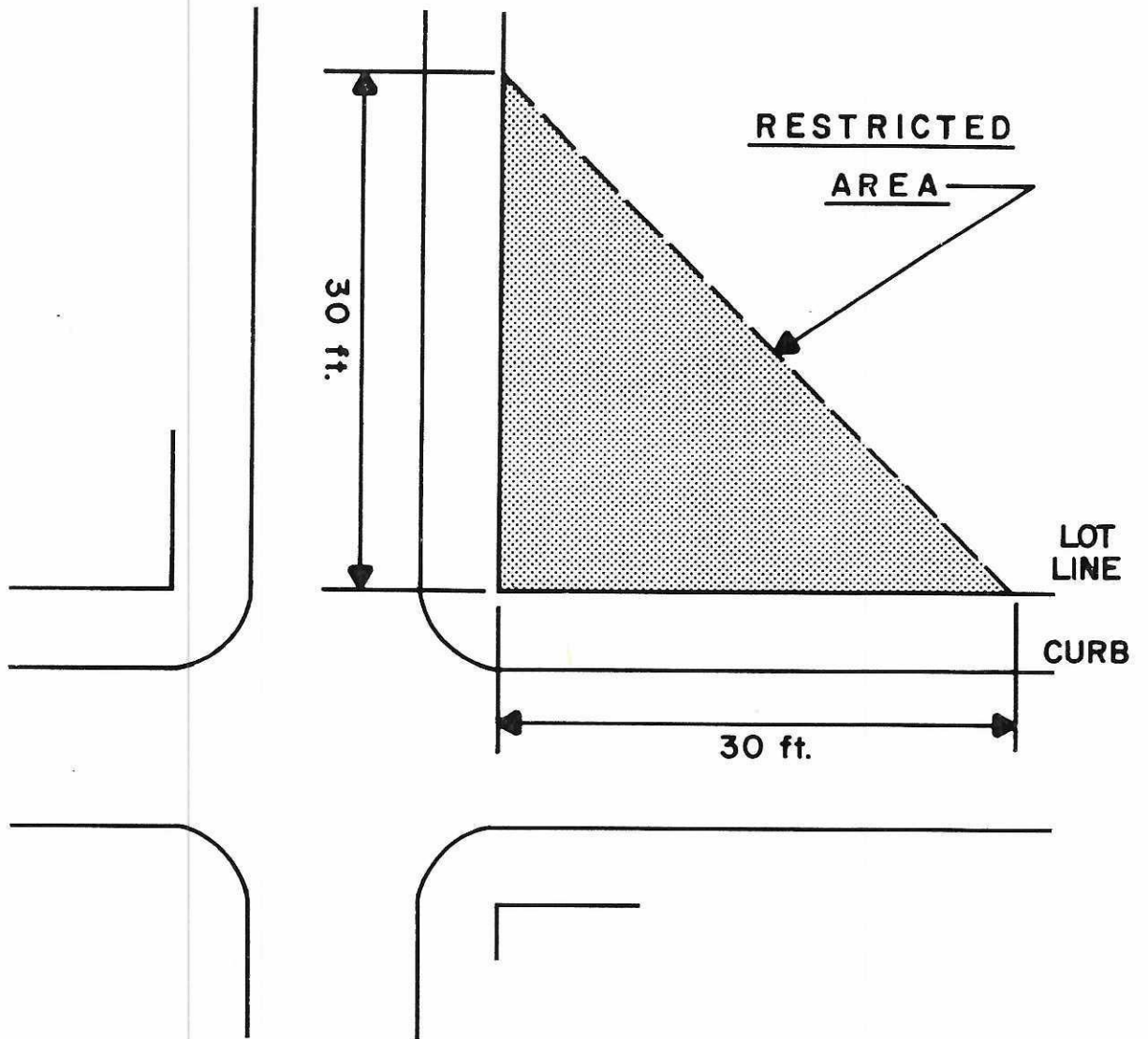
- (A) When passage would be contrary to the recommendation of the Board of Appeals.
- (B) When the amendment is opposed, in writing, by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered.

40-10-36 **NOTICE TO APPLICANT OF WRITTEN PROTEST.** In cases of written opposition to an amendment of this Code as prescribed in **Section 40-10-35**, a copy of the written protest shall be served by the protester or protesters on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

(See 65 ILCS 5/11-13-14)

(Ord. No. 07-02; 04-03-07)

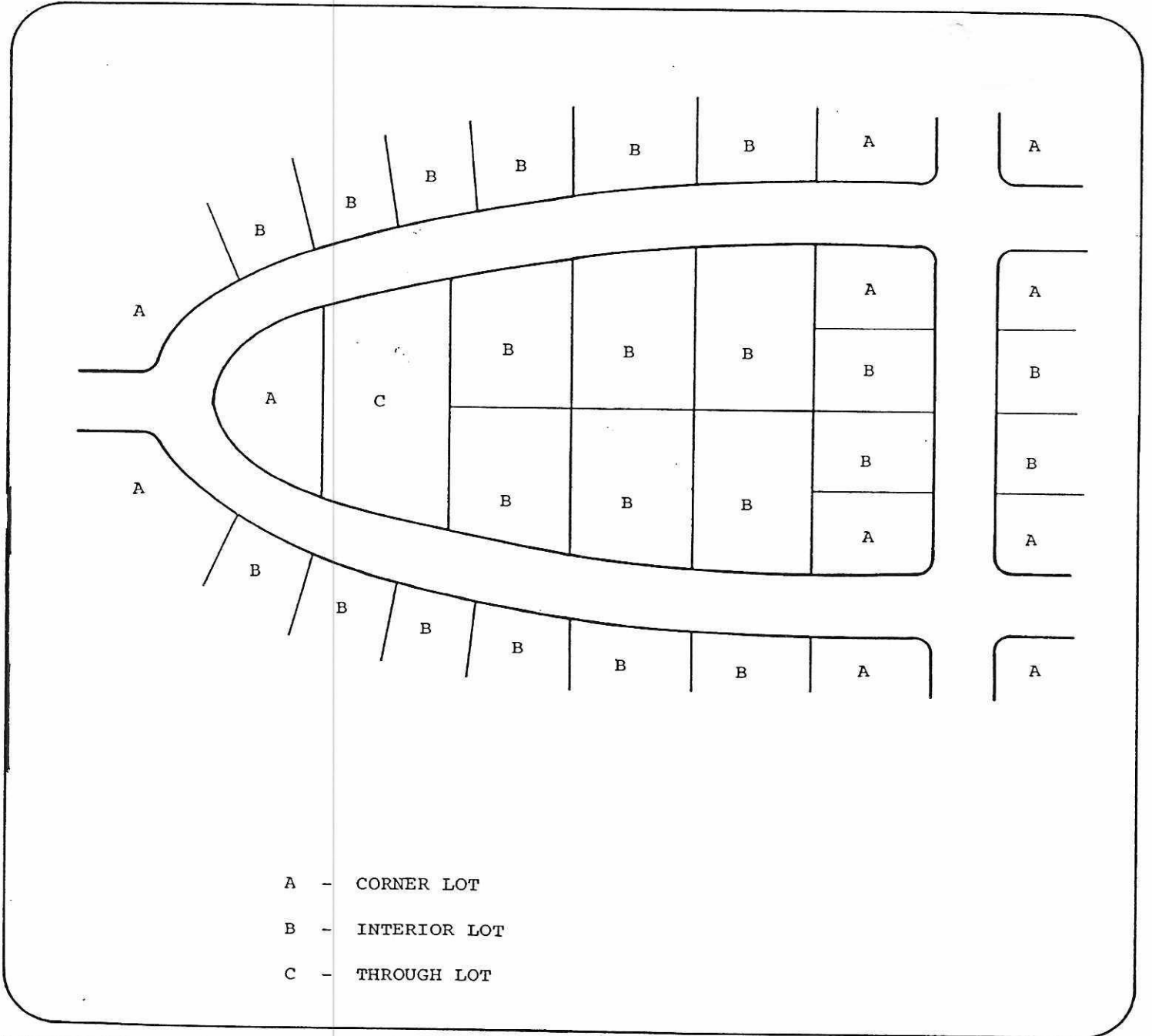
FIGURE 1



NOTE: 2' HEIGHT LIMIT ON FENCES, WALLS,
AND HEDGES IN RESTRICTED AREA.

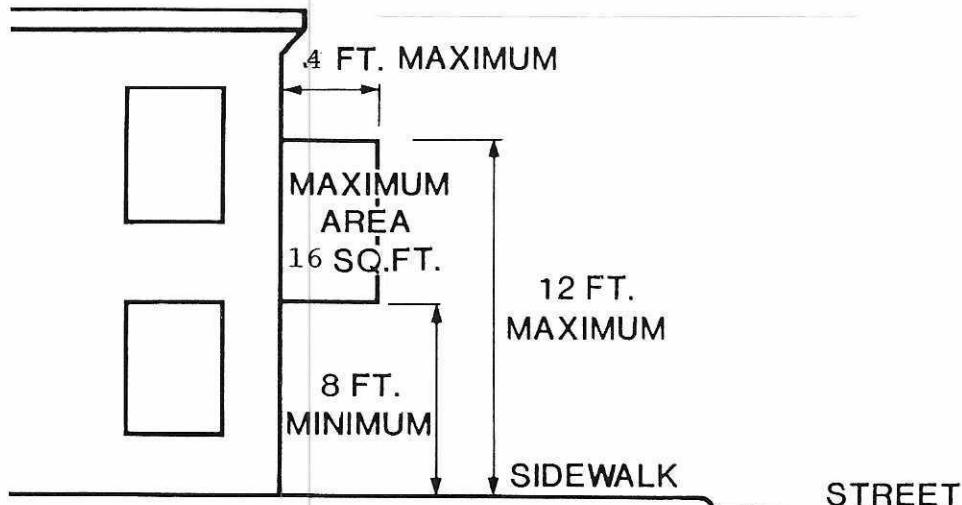
CORNERS

Figure 2

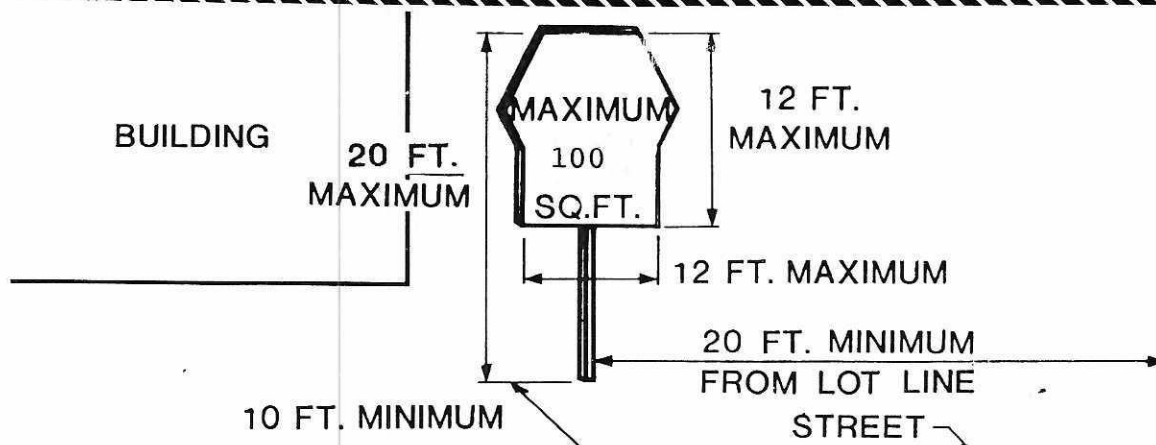


LOTS, CORNER

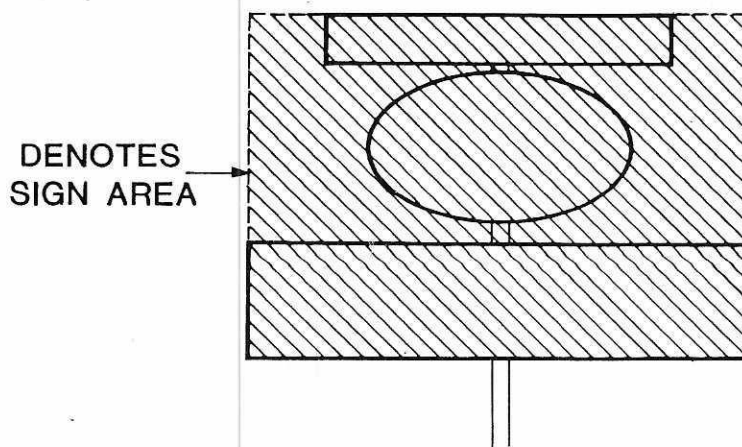
Figures 3 & 4



PROJECTING SIGNS SEE SECTION 40-6-12(C)

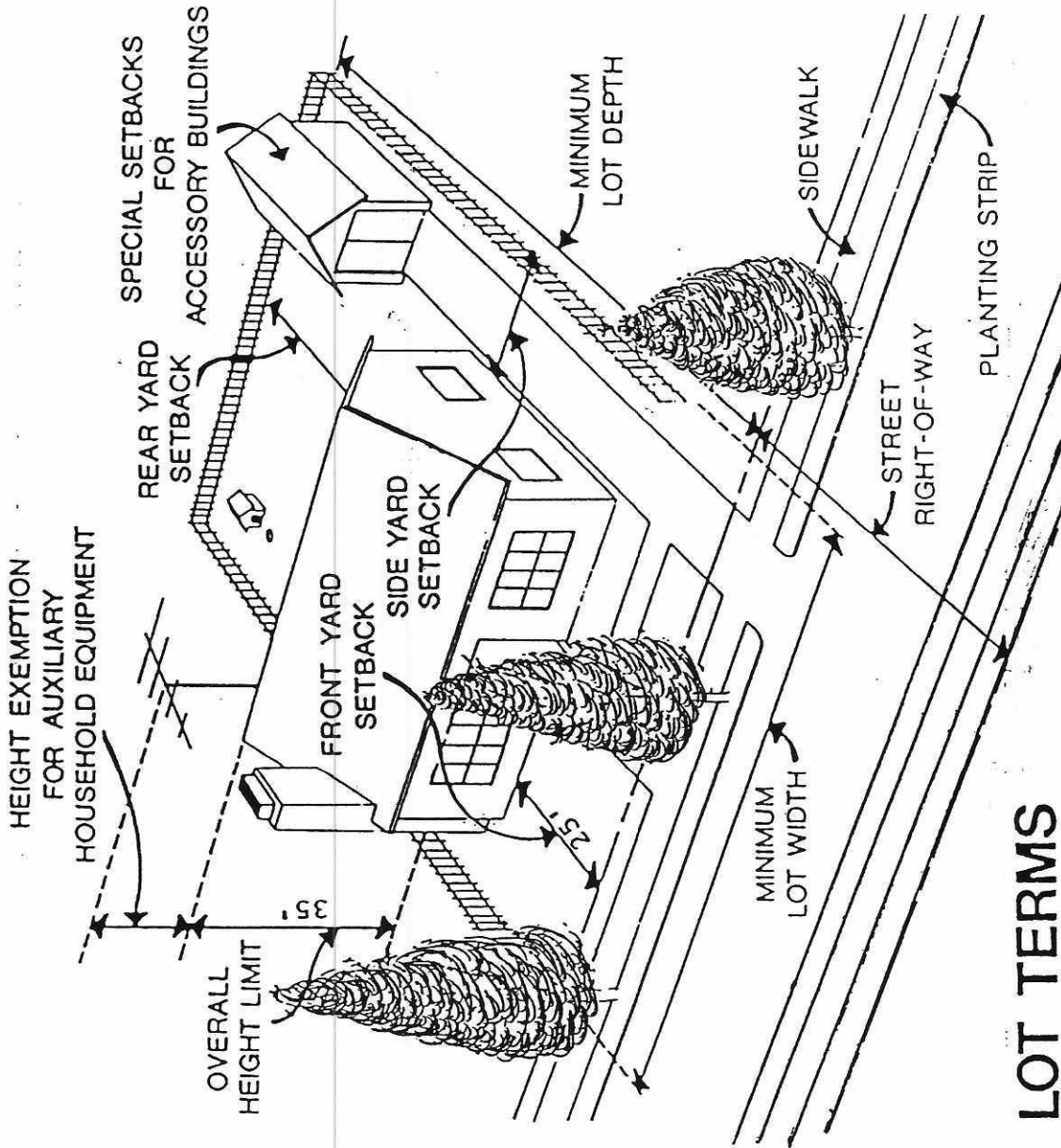


FREE STANDING SIGNS SEE SECTION 40-6-12(E)



SIGN AREA SEE SECTION 40-6-3

FIGURE A-5

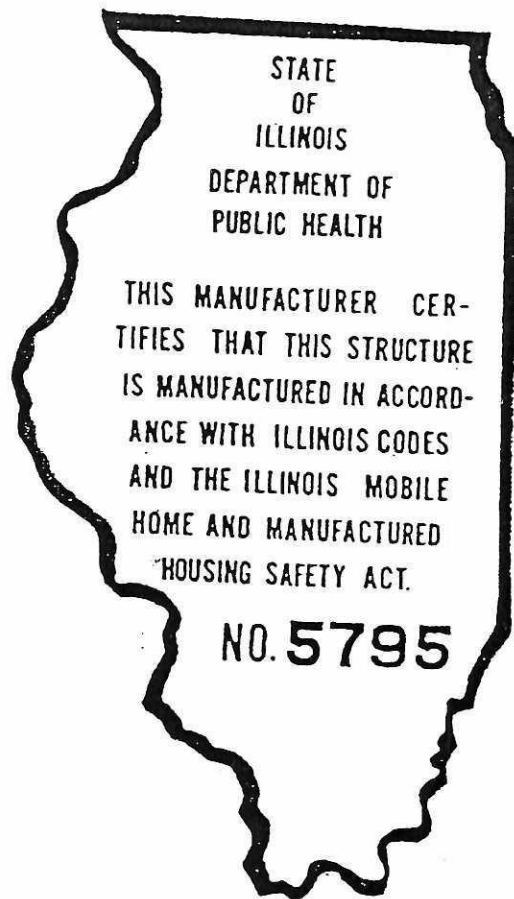


See Section 40-2-2

Figure 6

MODULAR AND MOBILE HOME IDENTIFICATION SEALS

Illinois Modular Seal
Affixed to Electrical
Panel Box on all
Modular Homes



HUD Mobile Home Seal
Affixed to the tail
light end of mobile
home.

