

Revised Code
-of-
Ordinances
of
Breese,
Illinois

Up-Dated: 2015

PREPARED BY:
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CITY OF BREESE, ILLINOIS

ORDINANCE NO. _____

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

ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF BREESE, ILLINOIS

THIS _____ DAY OF _____, 2015

Published in book form by authority of the Mayor and the City Council
of the City of Breese, Clinton County, Illinois this _____ day of
_____, 2015.

ORDINANCE NO. _____

AN ORDINANCE ADOPTING A REVISED CODE OF ORDINANCES OF THE CITY OF BREESE, CLINTON COUNTY, ILLINOIS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BREESE, CLINTON COUNTY, ILLINOIS, THAT:

Section 1: The following exhibit shall be "The Revised Code of Ordinances" of the City of Breese, Clinton County, Illinois" and shall be as follows:

Section II. 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 III. 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.

SEE EXHIBIT "A" FOLLOWING

Passed this ____ day of _____, 2015 by the City Council of the City of Breese, Clinton County, Illinois, and deposited and filed in the office of the City Clerk in said City on that date.

ROBERT J. VENHAUS, CITY CLERK
BREESE, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT OF INTEREST
Debbie Koetting					
Norb Tebbe					
Bill Fischer					
Carl Retermann					
Kevin Timmermann					
Paul Steinman					
Robert Berndsen					
Gary Usselmann					

Approved by the Mayor of the City of Breese, Clinton County, Illinois, this ____ day of _____, 2015.

MAYOR
BREESE, ILLINOIS

ATTEST:

ROBERT J. VENHAUS, CITY CLERK
BREESE, ILLINOIS

(SEAL)

Comment [JJK1]:

CITY CLERK'S CERTIFICATE

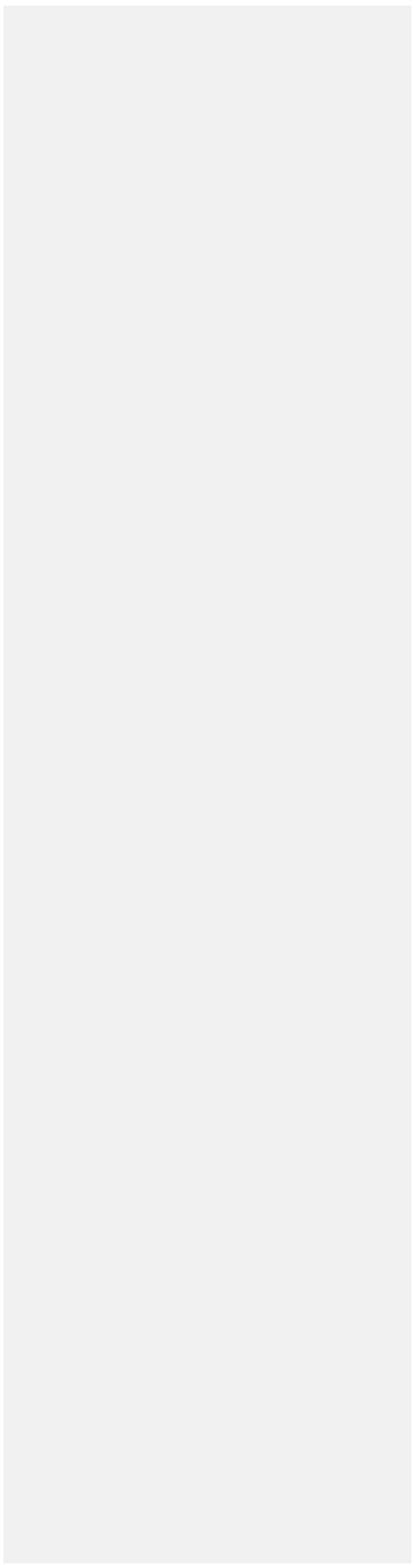
STATE OF ILLINOIS)
COUNTY OF CLINTON) **ss. CITY CLERK'S OFFICE**
CITY OF BREESE)

I, Robert J. Venhaus, City Clerk of the City of Breese, do hereby certify that the following Revised Code of Ordinances of the City of Breese, Clinton County, Illinois, published by authority of the City Council was duly passed by the City Council of the City of Breese, 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 Breese, Illinois, this _____ day of _____, 2015.

ROBERT J. VEHNAUS
CITY CLERK
BREESE, ILLINOIS

(SEAL)



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BREESE, ILLINOIS

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522a	Administration: Salaries	02/15/83	Sec. 1-2-123
523a	Liquor: Classes	03/01/83	Sec. 21-2-8, 21-3-1(A)
524a	Utilities: Rates	03/01/83	Sec. 38-2-19
525a	Wil-Char Sign	03/01/83	Special Legislation
526a	Building Permit	04/05/83	Chapter 5
527a	Motor Vehicle: Lanes	04/19/83	Chapter 24
528a	Budget Balances	04/19/83	Special Legislation
529a	Budget Deficits	04/19/83	Special Legislation
531a	Flood Plain Code	07/05/83	Ch. 5; Art. III
532a	Zoning: Fences	08/02/83	Chapter 40
534a	Utilities: Deposit	01/03/84	Sec. 38-2-5(A&B)
535a	Motor Vehicle: Stop	02/21/84	Chapter 24
537a	Electric Association	04/03/84	Special Legislation
538a	Utilities: Electric	04/17/84	Sec. 38-4-9
542a	Flood Plain Code	08/21/84	Ch. 5; Art. III
544a	Liquor: Age		09/04/84 Sec. 21-3-15
547a	Ill. Mun. Elec. Agency	11/20/84	Special Legislation
549a	Vehicle License	01/02/85	Sec. 39-1-2, 39-1-4, 39-1-6
550	Subdivision Code	01/15/85	Chapter 34
556a	Zoning: Map	07/02/85	Special Legislation
562a	Community Develop. Program	12/12/85	Chapter
563a	Breese School Purchase	12/17/85	Special Legislation
565a	Liquor	01/21/86	Sec. 21-2-8
566a	Zoning: Map	01/21/86	Special Legislation
568a	Motor Vehicle	03/04/86	Chapter 24
569a	Property Sale	04/01/86	Special Legislation
571a	Motor Vehicle	04/01/86	Chapter 24
572a	Motor Vehicle: Parking	05/06/86	Chapter 24
574a	Community Development	06/03/86	Chapter 11
575a	Utilities: Rates	07/01/86	Sec. 38-4-9
577a	Zoning: Southside	07/01/86	Special Legislation
578a	Zoning: Gordon's	07/15/86	Special Legislation
579a	Zoning: D.C.A.	07/15/86	Special Legislation
584a	Motor Vehicle	09/02/86	Chapter 24
588a	Motor Vehicle: Schools	10/07/86	Chapter 24
592a	Zoning: Map	11/04/86	Special Legislation
602a	Zoning: Map	12/16/86	Special Legislation
609a	Motor Vehicles: Parking	02/17/87	Chapter 24

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612a	Motor Vehicle: Stop	04/07/87	Chapter 24
615a	Ill. Risk Management Assoc.	06/02/87	Chapter 1
623a	Discharge of Sewage	09/22/87	Special Legislation
628a	Animals: Pit Bulls	12/01/87	Ch. 4; Art. IV
630a	Motor Vehicle: Stop	12/15/87	Chapter 24
631a	Buildings: Fee	12/15/87	Chapter 5
632a	Zoning Fees		12/15/87 Chapter 40
637a	Buildings: Fees	04/05/87	Chapter 5
638a	Motor Vehicle: Handicapped	04/19/87	Chapter 24
643a	Zoning: Map	06/17/87	Special Legislation
644a	Nuisances: Inoperable	06/21/87	Chapter 25
648a	Zoning: Map	07/19/87	Special Legislation
649a	Zoning: Code	07/19/87	Chapter 40
652a	Zoning: Code	10/04/88	Chapter 40
653a	Revised Code Number	10/04/88	
655a	Motor Vehicle: Park	10/18/88	Chapter 24
656a	Motor Vehicle: Park	11/01/88	Chapter 24
658a	Motor Vehicle: Park	11/15/88	Chapter 24
660a	Buildings: Flood Code	12/20/88	Chapter 5
661a	Administration: Salaries	01/17/89	Chapter 1
664a	Zoning: Code	04/01/89	Chapter 40
665a	Subdivision Code	04/18/89	Chapter 34
666a	Zoning: Map	04/18/89	Chapter 40
667a	Utilities: Rates	05/02/89	Ch. 38-2-19
669	Motor Vehicles: Stop	06/06/89	Chapter 24
669a	Motor Vehicles: Stops	06/06/89	Chapter 24
670a	Zoning: Map	06/06/89	Special Legislation
673a	Ill. Mun. Gas Assoc.	07/18/89	
674a	Ill. Mun. Retirement Fund	07/18/89	Chapter 1
677a	Motor Vehicle: Yield	08/01/89	Chapter 40
678a	Zoning: Map	08/01/89	Special Legislation
679a	Cemetery	08/01/89	Chapter 10
680a	Motor Vehicle	09/05/89	Chapter 24
681a	Annex: Bingham	09/05/89	Special Legislation
682a	Zoning: Schwarz Variance	10/03/89	Special Legislation
683a	I.M.E.A.: Rood House	10/03/89	Special Legislation
684a	Utilities: Cross-Connections	11/16/89	Chapter 38
685	Tax Levy	11/21/89	Special Legislation
686	Motor Vehicle: Stops	12/19/89	Ch. 24; Schd. "A"
687	Motor Vehicles	01/16/90	Ch. 24; Sec. 24-6-6
688	Motor Vehicles	02/06/90	Chapter 24
689	Motor Vehicles	03/06/90	Ch. 24; Schd. "D"
690	Zoning: Masching Variance	03/20/90	Special Legislation
691	Prevailing Wages	05/15/90	Special Legislation

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692A	Rezoning: (Dick's Tav)	06/05/90	Special Legislation
693A	Rezoning: (Ed Steinman)	06/05/90	Special Legislation
694A	Zoning Variance - Rosen	06/05/90	Special Legislation
695A	Motor Vehicle	06/05/90	Sec. 24-4-2
696A	IMEA Sales Contract	06/05/90	Special Legislation
697A	Annexation - Strake	07/03/90	Special Legislation
698A	Rezoning: Strake	07/03/90	Special Legislation
699A	Zoning Variance - Tebbe	07/03/90	Special Legislation
700A	Zoning: Special Use - Cty. Ser.	07/03/90	Special Legislation
701A	Zoning Variance - Blaub Subd.	07/03/90	Special Legislation
702A	Appropriation	07/03/90	Special Legislation
703A	Revised Code of Ordinances	07/17/90	Special Legislation
704A	Zoning Temp. Use - Goewert	08/21/90	Special Legislation
705A	Annexation: St. John's Cemetery		Special Legislation
706A	Annexation: Ellwood Cemetery		Special Legislation
707A	Amend. (Rev. Code of Ord.)	10/02/90	Special Legislation
708A	IMEA Sales Contract		Special Legislation
709A	Zoning: Special Use	10/16/90	Special Legislation
710A	Annexation: Vossclare Est.		Special Legislation
711A	Annexation: Dumstorff		Special Legislation
712A	Tax Levy	11/20/90	Special Legislation
713A	Annexation: Westbrook		Special Legislation
714A	Rezoning: Weisenfeld	01/08/91	Special Legislation
715A	Administration: Salaries	01/08/91	Sec. 1-4-1
716A	Golf Course Bonds	02/05/91	Special Legislation
717A	Annexation: Vossclare		Special Legislation
718A	Zoning: Special Use Holthaus	03/19/91	Special Legislation
719A	Annexation: Johnson		Special Legislation
720A	Rezoning: Various Areas	04/16/91	Special Legislation
721A	Annexation: Fix	04/16/91	Special Legislation
722A	Committees	04/16/91	Sec. 1-2-5
723A	Bonds (\$160,000) Street Project	05/07/91	Special Legislation
724A	Motor Vehicle: Yield	05/07/91	Sec. 24-3-4
725A	Zoning Code	05/07/91	Special Legislation
726	Tax Increment: Topmost	05/21/91	Special Legislation
727	Zoning: Special Use Tichter	06/04/91	Special Legislation
728	Zoning: Variance Wiese	06/04/91	Special Legislation
729	Rezone: Johnson; Fix; Vossclare	06/04/91	Special Legislation
730	Prevailing Wages	06/18/91	Special Legislation
731	Tax Increment - Gerdes St.	06/18/91	Special Legislation
732	Annexation: Thomas		Special Legislation
733	Zoning: Amendment	07/02/91	Secs. 40-4-8; 40-4-14
734	Abandon Utility Easements	07/16/91	Special Legislation
735	Appropriation	07/16/91	Special Legislation
736	Tax Increment: Mater Dei Drive	07/16/91	Special Legislation

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737	TIF Bonds/Topmost	07/22/91	Special Legislation
738	Street: Pine Ln to Vossclare	08/06/91	Special Legislation
739	Addition to Street	08/06/91	Special Legislation
740	Zoning: Special Use Agripride FS	09/04/91	Special Legislation
741	Zoning: Special Use Astroth	09/04/91	Special Legislation
742	Annexation - Wade Sales	--/--/91	Special Legislation
743	Zoning Variance: Toennies	09/17/91	Special Legislation
744	Zoning Variance: Wade Sales	10/01/91	Special Legislation
745	Zoning Variance: St. John's Church	10/15/91	Special Legislation
746	Tax Levy	01/--/91	Special Legislation
747	Illinois Bell Franchise	--/--/91	Special Legislation
748	Annexation - Padfield	--/--/91	Special Legislation
749	Utilities: Water	12/03/91	Sec. 38-3-10
750	Zoning - Variance - Bonvie	12/17/91	Special Legislation
751	Zoning - Rezone Wade Sales	12/17/91	Special Legislation
752	Motor Vehicles: Stops	01/07/92	Sec. 24-3-3
753	Zoning Amendment - Rezone Lot 17	01/21/92	Special Legislation
754	Motor Vehicle: Parking	04/23/92	Sec. 24-6-3; Schd. "D"
764	Motor Vehicle: Stops	10/20/92	Sec. 24-3-3; Schd. "A"
767	Administration: Salaries	02/21/93	Sec. 1-4-1(D)
768	Administration: Penalty	03/16/93	Secs. 1-1-19; 1-1-20; 24-6-9
770	Motor Vehicle: Yield	05/13/93	Sec. 24-3-4; Schd. "K"
771	Parks & Recreation	05/04/93	Ch. 28; Art. I
773	Parks & Recreation	07/15/93	Ch. 28; Art. IV
774	Motor Vehicle: Handicapped	07/06/93	Sec. 24-6-4; Schd. "O"
777	Zoning: Content	09/21/93	Sec. 40-6-3(A)
779	Liquor	11/02/93	Sec. 21-2-6(E)
782	Motor Vehicle	12/21/93	Sec. 24-4-2(F)
783	Vehicle Licenses	12/21/93	Repeal of Ch. 39
790	Motor Vehicle	04/05/94	Sec. 24-3-3; Schd. "A"
791	Tree Code	04/05/94	Ch. 35 (New)
792	Abate Taxes for Golf Bonds		Special Legislation
793	Zoning Amendment - Food		Special Legislation
794	Zoning Variance - Rickhoff		Special Legislation
795	Waterworks/Sewerage Bonds		Special Legislation
796	Tax Increment Revenue Bonds		Special Legislation
797	Annexations - Hardees to Wickes Lumber		Special Legislation
798	Annexation - Rehabilitation Center (West)		Special Legislation
799	Prevailing Wage		Special Legislation
800	Annexation - Bruegge Property		Special Legislation

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801	Annexation - Evelyn Dorries		Special Legislation
802	Annexation - Evelyn Dorries		Special Legislation
803	Appropriation		Special Legislation
804	Zoning Variance - Foppe		Special Legislation
805	Clarification/The Legal Description of #776		Special Legislation
806	Zoning Variance - Rickhoff		Special Legislation
807	Annexation - Voss		Special Legislation
808	Fair Housing Code	09/06/94	Chapter 14
809	New City Hall Bond Issue		Special Legislation
810	City Hall Bonds Series 1994C \$500,000		Special Legislation
811	Tax Levy		Special Legislation
812	Zoning Variance - Strake		Special Legislation
813	Zoning Variance - Hoelscher		Special Legislation
814	Zoning Variance - Richter		Special Legislation
815	Zoning Amendment - St. James Place		Special Legislation
816	Zoning Amendment - Kleiboeker/Dorries		Special Legislation
817	Administration: Salaries	02/07/95	Sec. 1-3-1
818	Utilities: Water Rates	03/21/95	Chapter 38
819	Utilities: Sewer Rates	03/21/95	Chapter 38
820	Annexation - Bloemker Property		Special Legislation
821	Abate Taxes of Golf Course Bonds		Special Legislation
822	Abate Taxes on Water/Sewer Bonds		Special Legislation
823	Abate Taxes on TIF Bonds		Special Legislation
824	Abate Taxes on City Hall		Special Legislation
825	Borrow Funds From Water Pollution Control Revolving Loan Fund (IEPA Loan)		Special Legislation
826	Prevailing Wage		Special Legislation
827	Annexation - Strake		Special Legislation
828	Zoning Amendment - Becker Property		Special Legislation
829	Zoning Amendment - Haselhorst Property		Special Legislation
830	Zoning: Special Use Permit - Sellers		Special Legislation
831	Appropriation		Special Legislation
832	Zoning Variance - Boeckman		Special Legislation
833	Interfund Receivables and Payables		Special Legislation
834	Motor Vehicles: Parking & Stop	09/19/95	Chapter 24
835	Unlawful to Enter Lake/Ponds @ Bent Oak Golf Course	09/19/95	
836	Sewer Property - Illegal to Enter Within Fenced-In Area	10/02/95	
837	Zoning: Special-Use		
838	Tax Levy		Special Legislation

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839	Motor Vehicle: Truck Parking		Chapter 24
840	Zoning - Special-Use		
841	Sewer Revenue Bonds		Special Legislation
842	Red Bud I.M.E.A.		
843	Easement - Rehkemper		Special Legislation
844	Subdivision	03/19/96	Chapter 34
845	Sale of City Property - Hilmes		Special Legislation
846	TIF Bonds - 1996B		Special Legislation
847	Sewer Bonds - 1996A - \$215,000		Special Legislation
848	TIF Bonds - 1996B - \$480,000		Special Legislation
849	Abate Taxes on City Hall Bonds - 1994C		Special Legislation
850	Abate Property Taxes on Golf Bonds - 1993		Special Legislation
851	Abate Property Taxes on Water Bonds - 1994A		Special Legislation
852	Abate Property Taxes on TIF Bonds - 1994B		Special Legislation
853	Prevailing Wage		Special Legislation
854	Appropriation - Fiscal 1997		Special Legislation
855	TIF Agreements		Special Legislation
856	Tim Herbst Motors - TIF Extension 5 years		Special Legislation
857	Zoning Code: Content	09/17/96	Secs. 40-4-8; 40-4-14
858	Annexation: Martha Wobbe		Special Legislation
859	Administration: Salaries	10/01/96	Sec. 1-4-1
860	Zoning Map: Krueps 1 st Subd		Special Legislation
861	Zoning: Special Use - Eilers (Modular Home)		Special Legislation
862	Annexation: Vossclare #8		Special Legislation
863	Annexation: Mahlandt		Special Legislation
864	IMEA: Village of Greenup		Special Legislation
865	Tax Levy 1996		Special Legislation
866	Annexation: Ferd Hilmes		Void
867	Zoning Map: Koch & Marks Addition		Special Legislation
868	Zoning - Variance: Avon Theater		Special Legislation
869	City Hall Bond - 1997 - Refunding 1994C		Special Legislation
870	Administration: Mayor	03/18/97	Secs. 1-2-52; 4-2-2 4-2-4
871	Abate Taxes on Golf Course Bonds - 1992		Special Legislation
872	Abate Taxes on Water/Sewer Bonds - 1994A		Special Legislation
873	Abate Taxes on TIF Bonds - 1994B		Special Legislation
874	Abate Taxes on City Hall Bonds - 1994C		Special Legislation
875	Abate Taxes on Water/Sewer Bonds - 1996A		Special Legislation
876	Abate Taxes on TIF Bonds - 1996B		Special Legislation
877	TIF Bond Issue - 1997A		Special Legislation
878	MFT Bonds - 1997B		Special Legislation
879	Refund Golf Bonds - 1992 New Series - 1997C		Special Legislation
880	Zoning Amendment: Excel Bottling Co. Property		Special Legislation

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881	Zoning: Special-Use - Huelskamp	1997	Special Legislation
882	Zoning: Variance - Toennies	1997	Special Legislation
883	Annexation: Wade	1997	Special Legislation
884	TIF Bond Issue - 1997A	1997	Special Legislation
885	MFT Bond Issue - 1997B	1997	Special Legislation
886	Golf Refunding Bond Issue - 1997C	1997	Special Legislation
887	Prevailing Wage	1997	Special Legislation
888	Appropriation Fiscal 1998	1997	Special Legislation
889	Zoning Amendment: Special-Use - Ruppel	1997	Special Legislation
890	Zoning Text: Public Hearing	08/05/97	Sec. 40-11-33
891	Zoning Text: Public Hearing	08/05/97	Sec. 40-11-26
892	Zoning Text: Public Hearing	08/05/97	Sec. 40-11-19
893	Zoning Text: Definition	08/05/97	Sec. 40-2-2
894	Zoning Text	08/05/97	Sec. 40-3-9
895	Zoning Text	08/05/97	Sec. 40-4-12
896	Zoning Text	08/05/97	Sec. 40-4-15
897	Zoning Text	08/05/97	Sec. 40-6-3
898	Zoning Map: Vossclare #8	1997	Special Legislation
899	Motor Vehicle: Stop	10/16/97	Sec. 24-3-1; Schd. "A"
900	Motor Vehicle: Handicapped	10/07/97	Sec. 24-6-4(K)
901	Motor Vehicle: Stop	11/04/97	Sec. 24-3-3; Schd. "A"
902	Motor Vehicle: Stop	11/04/97	Sec. 24-3-3; Schd. "A"
903	Tax Levy - 1997	1997	Special Legislation
904	Taxation: Infrastructure	12/16/97	Ch. 36; Art. III
905	Motor Vehicle: Stop	01/20/98	Sec. 24-3-3; Schd. "A"
906	Motor Vehicle: Stop	01/20/98	Sec. 24-3-3
907	Liquor Code: Prohibited Locations	01/20/98	Sec. 21-3-3
908	Zoning: Special Use Permit: Koopman	1998	Special Legislation
909	Subdivision Code	02/17/98	Chapter 34
910	Motor Vehicle: Stop	02/17/98	Sec. 24-3-3; Schd. "A"
911	Motor Vehicle: Stop	02/17/98	Sec. 24-3-3; Schd. "A"
912	Enacting Revised Code of Ordinances	03/15/98	Special Legislation
913	Abate Taxes on GO Bonds Series 1994A	1998	Special Legislation
914	Abate Taxes on GO Bonds Series 1994B	1998	Special Legislation
915	Abate Taxes on GO Bonds Series 1996A	1998	Special Legislation
916	Abate Taxes on GO Bonds Series 1996B	1998	Special Legislation
917	Abate Taxes on GO Bonds Series 1997	1998	Special Legislation
918	Abate Taxes on GO Bonds Series 1997A	1998	Special Legislation
919	Abate Taxes on GO Bonds Series 1997B	1998	Special Legislation
920	Abate Taxes on GO Bonds Series 1997C	1998	Special Legislation
921	Prevailing Wages	1998	Special Legislation
922	Appropriation	1998	Special Legislation
923	Annexation – North Towne Development	1998	Special Legislation

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924	City of Fairfield IL Mun Electric Agency - Allendale	1998	Special Legislation
925	Motor Vehicles: Speed	08/18/98	Sec. 24-4-2(F); Schd "L"
926	Motor Vehicles: Handicapped Parking	08/18/98	Sec. 24-6-4
927	Zoning – Special Use Permit - Michael Bruegge	1998	Special Legislation
928	Offenses: Burning	09/01/98	Sec. 27-2-15
929	Utilities: Sewer Rates	10/06/98	Sec. 38-3-21
930	Administration: Salaries	10/20/98	Sec. 1-4-1
931	Administration: Supt of Streets Eliminated	11/03/98	Sec. 1-02-120 – 1-2-124
932	Administration: Supt of Utilities Eliminated	11/03/98	Sec. 1-2-113
933	Administration: Director of Public Works Created	11/03/98	Sec. 1-2-113
934	Administration: Asst Director of Public Works	11/03/98	Sec. 1-2-120
935	Zoning: Variance – Foppe	1998	Special Legislation
936	Tax Levy	1998	Special Legislation
937	Library Tax Increase	02/02/99	Chapter 36
938	Village of Albany New Member of IMEA	1999	Special Legislation
939	\$300,000 Water Revenue Bonds	1999	Special Legislation
940	Motor Vehicles: Stop Signs	03/16/99	Sec. 24-3-3; Schd. "A"
941	Annexation – Mahlandt	1999	Special Legislation
942	Abate Taxes 1994A Water Bonds	1999	Special Legislation
943	Abate Taxes 1994B TIF Bonds	1999	Special Legislation
944	Abate Taxes 1996A Sewer Bonds	1999	Special Legislation
945	Abate Taxes 1996B TIF Bonds	1999	Special Legislation
946	Abate Taxes 1997 City Hall Bonds	1999	Special Legislation
947	Abate Taxes 1997A TIF Bonds	1999	Special Legislation
948	Abate Taxes 1997B MFT Bonds	1999	Special Legislation
949	Abate Taxes 1997C Golf Bonds	1999	Special Legislation
950	Zoning: Variance – Voss	1999	Special Legislation
951	Zoning: Variance – Wade/CC Food Mart	1999	Special Legislation
952	\$1,100,000 GO Water & Sewer	1999	Special Legislation
953	Prevailing Wages	1999	Special Legislation
954	Administration: State Gift Ban Act	06/15/99	Sec. 1-5-1
955	Appropriation	1999	Special Legislation
956	Motor Vehicles: Stop Signs	08/03/99	Sec. 24-3-3; Schd. "A"
957	Motor Vehicles: Stop Signs	08/03/99	Sec. 24-3-3; Schd. "A"
958	TIF Bonds/\$500,000/Series 1999	1999	Special Legislation
959	Zoning: Variance – Hellige	1999	Special Legislation
960	Zoning Code: Text Amendments	09/07/99	Sec. 40-2-2
961	Motor Vehicles: Speed Limit	09/07/99	Sec. 24-4-2(F); Schd. "L"
962	Zoning: Map – Wieter	1999	Special Legislation
963	Fair Housing Code	09/21/99	Chapter 14

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964	Motor Vehicles: Stop Signs	10/05/99	Sec. 24-3-3; Schd. "A"
965	Motor Vehicles: Stop Signs	10/21/99	Sec. 24-3-3; Schd. "A"
966	\$500,000 GO Bonds	1999	Special Legislation
967	Motor Vehicles: Parallel Parking Zone	12/07/99	Sec. 24-6-3
968	Tax Levy	1999	Special Legislation
969	TIF Redevelopment Project Area #1	1999	Special Legislation
970	TIF Project Area Boundary	1999	Special Legislation
971	Tax Increment Financing	1999	Special Legislation
972	Annexation: Hal Enterprises LLC	2000	Special Legislation
973	Zoning Map: Hal Enterprises	2000	Special Legislation
974	Zoning: Variance – Southern IL Bus Co	2000	Special Legislation
975	Annexation: Johnson	2000	Special Legislation
976	Zoning Code: Condominiums Permitted in R-3 District (With Special Restrictions)	03/21/00	Secs. 40-4-18; 40-4-20
977	Zoning Code: Planned Developments	03/21/00	Sec. 40-3-27
978	Taxation: Hotel/Motel Tax	04/04/00	Chapter 36
979	Abate Taxes on Water/Sewer Bonds 1994A	2000	Special Legislation
980	Abate Taxes on TIF Bonds 1994B	2000	Special Legislation
981	Abate Taxes on Water/Sewer Bonds 1996A	2000	Special Legislation
982	Abate Taxes on TIF Bonds 1996B	2000	Special Legislation
983	Abate Taxes on TIF Bonds 1997	2000	Special Legislation
984	Abate Taxes on TIF Bonds 1997A	2000	Special Legislation
985	Abate Taxes on MFT Bonds 1997B	2000	Special Legislation
986	Abate Taxes on Golf Bonds 1997C	2000	Special Legislation
987	Abate Taxes on Water/Sewer Bonds 1999	2000	Special Legislation
988	Abate Taxes on TIF Bonds 1999	2000	Special Legislation
989	Annexation: Bruegge	2000	Special Legislation
990	Annexation: Breese Welding Property	2000	Special Legislation
991	Prevailing Wages	2000	Special Legislation
992	Zoning: Special Use Permit – Kohler	2000	Special Legislation
993	Appropriation	2000	Special Legislation
994	Motor Vehicles: Stop Signs	09/05/00	Sec. 24-3-3; Schd. "A"
995	Motor Vehicles: Stop Signs	09/05/00	Sec. 24-3-3; Schd. "A"
996	Streets: Erosion Control Code	10/17/00	Chapter 33
997	Administration: City Collector Created	10/17/00	Sec. 1-2-75
998	Administration: Salaries	10/17/00	Sec. 1-4-1
999	Zoning: Special Use Permit – Heferon	2000	Special Legislation
1000	Zoning Map: Brookside Acres	2000	Special Legislation
1001	Zoning Map: Blacksmith Property	2000	Special Legislation
1002	Tax Levy	2000	Special Legislation
1003	Taxation: Taxpayers Bill of Rights	12/19/00	Chapter 36
1004	Administration: Minor Violations Penalty	01/16/01	Sec. 1-1-20(A)
1005	Motor Vehicles: No Parking	03/06/01	Sec. 24-6-3
1006	Encroachment on Old Rt 50	03/06/01	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1007	Utilities: Prohibiting Discharge of Sewage	03/06/01	Special Legislation
1008	Offenses: Prohibits the Use of Groundwater as a Potable Water Supply	03/20/01	Chapter 27
1009	Zoning Code: Permitted Uses	04/03/01	Sec. 40-4-9
1010	Offenses: Illegal to Use Public/Private Dumpsters	04/03/01	Sec. 27-2-30
1011	Abates Taxes Revenue Bonds Levied 12/19/00	2001	Special Legislation
1012	Prevailing Wage	2001	Special Legislation
1013	Ambulance Rates	2001	Special Legislation
1014	Zoning: Comprehensive Plan & Map	07/10/01	
1015	Appropriation	2001	Special Legislation
1016	Administration: Wards	07/24/01	Section 1-3-1
1017	Zoning: Special-Uses	10/02/01	Section 40-4-10
1018	Motor Vehicles: Stop Signs	10/16/01	Ch. 24; Schds. "A" & "K"
1019	Zoning: Variance: Albers	2001	Special Legislation
1020	Zoning: Variance: Stevenson	2001	Special Legislation
1021	Zoning: Special-Use: Schulte	2001	Special Legislation
1022	Tax Levy	2001	Special Legislation
1023	Motor Vehicles: Yield Streets	01/22/02	Ch. 24; Schd. "K"
1024	Tax Abatement	2002	Special Legislation
1025	Motor Vehicles: Stop Signs	04/16/02	Ch. 24; Schd. "A"
1026	Annexation: Essenpreis	2002	Special Legislation
1027	Annexation: Kreiter	2002	Special Legislation
1028	Offenses: Tobacco	05/07/02	Section 27-2-8
1029	Prevailing Wage	2002	Special Legislation
1030	Zoning: Special-Use: Mensing	2002	Special Legislation
1031	Appropriation	2002	Special Legislation
1032	Zoning: Special-Use: Wade	07/16/02	Special Legislation
1033	Zoning: Special-Use: Richter	2002	Special Legislation
1034	Annexation: Bruegge Devel. Co.	2002	Special Legislation
1035	Zoning: Rezone: Brose LLC	2002	Special Legislation
1036	Tax Levy	2002	Special Legislation
1037	Tax Abatement	2002	Special Legislation
1038	Gas Franchise	2002	Special Legislation
1039	Contract (IMEA)	2002	Special Legislation
1040	Zoning: Definitions	01/07/03	Section 40-2-2
1041	Utilities: Rates	02/04/03	Section 38-3-10
1042	Zoning: Lot Area	03/04/03	Section 40-4-8(A)
1043	Annexation: North Towne Dev Inc	2003	Special Legislation
1044	Amends #1027	2003	Special Legislation
1045	Prevailing Wage	2003	Special Legislation
1046	Administration: Penalty	06/18/03	Section 1-1-20(A)

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1047	Zoning: Special-Use: Ron Foppe et al	2003	Special Legislation
1048	Annexation: Strake	2003	Special Legislation
1049	Appropriation	2003	Special Legislation
1050	Zoning: Special-Use: Kruse	2003	Special Legislation
1051	IMLRMA Agreement	2003	Special Legislation
1052	Tax Levy	2003	Special Legislation
1053	Tax Abatement	2003	Special Legislation
1054	Utilities: Rates	01/06/04	Section 38-3-10
1055	Motor Vehicles: Stop Signs	01/06/04	Special Legislation
1056	Borrow Funds \$9,262,000	2004	Special Legislation
1057	Annexation: Kreiter	2004	Special Legislation
1058	Utilities	02/03/04	Section 38-3-3; 38-3-13 & 38-3-14
1059	Motor Vehicles: Stop Signs	02/03/04	Ch. 24; Schd. "A"
1060	Annexation: Quad County Ready Mix	2004	Special Legislation
1061	Annexation: Voss	2004	Special Legislation
1062	Administration: Ethics Act	05/04/04	Ch. 1; Art. V
1063	Flood Plain Code	05/04/04	Chapter 15
1064	Motor Vehicles: Yield Street	05/04/04	Ch. 24; Schd. "K"
1065	Zoning: Variance: Becker	2004	Special Legislation
1066	Prevailing Wage	2004	Special Legislation
1067	Zoning: Special-Use: Sprint	2004	Special Legislation
1068	Appropriation	2004	Special Legislation
1069	Motor Vehicles: Speed Limit	07/20/04	Ch. 24; Schd. "L"
1070	Motor Vehicles: Stop Signs	08/17/04	Ch. 24; Schd. "A"
1071	Motor Vehicles: Stop Signs	08/17/04	Ch. 24; Schd. "A"
1072	Zoning: Variance: Weh	2004	Special Legislation
1073	Motor Vehicles: Yield Streets	09/07/04	Ch. 24; Schd. "K"
1074	Motor Vehicles: Stop Signs	09/21/04	Ch. 24; Schd. "A"
1075	Zoning: Variance: Breese Journal	2004	Special Legislation
1076	National Incident Management System	2004	Special Legislation
1077		10/19/04	
1078	IMLRMA	2004	Special Legislation
1079	Annexation: Kreiter	2004	Special Legislation
1080	Tax Levy	2004	Special Legislation
1081	Tax Abatement	2004	Special Legislation
1082	TIF Bonds	2004	Special Legislation
1083	Subdivision: Sidewalks	01/18/05	Secs. 38-3-17(B)(1)(a); 38-3-17(B)(2)(a); 34-3-22; 34-3-40
1084	Motor Vehicles: Yield Streets	01/18/05	Ch. 24; Schd. "K"

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1085	Zoning: Rezone Property	2005	Special Legislation
1086	Administration: Department of Public Works	02/01/05	Ch. 1; Art. II. Div. XI; Div. XIII; Section 38-1- 3; 38-1-4
1087	Administration: Department of Public Works	02/01/05	Secs. 1-2-113 – 1-2-115
1098	Building Code	10/04/05	Chapter 6
1107	Building Code	02/07/06	Section 6-1-3(E)
1108	Zoning Code	02/21/06	Secs. 40-2-2; 40-4-19; 40-4-20; 40-7-7(A)
1110	Zoning Code	04/18/06	Section 40-3-15
1111	Utilities: Electric Rates	06/06/06	Secs. 38-3-35; 38-3-36
1121	Utilities: Additional Charges	09/19/06	Section 38-3-36
1122	Motor Vehicles: Stop Signs	09/19/06	Ch. 24; Schd. "A"
1123	Zoning: Special Uses	09/19/06	Section 40-4-50
1129	Offenses: Noise	12/19/06	Section 27-4-8
1132	Utilities: Water Rates	04/17/07	Section 38-3-10
1134	Building Code	04/17/07	Chapter 6
1136	Animals: Manner of Keeping	05/01/07	Section 3-1-3
1139	Motor Vehicles: Stop Signs	06/19/07	Ch. 24; Schd. "A"
1140	Motor Vehicles: Stop Signs	06/19/07	Ch. 24; Schd. "A"
1144	Flood Plain Code	07/17/07	Chapter 15
1146	Motor Vehicles: Bicycles, Skateboards	11/06/07	Section 24-2-8
1147	Zoning: Special Uses	11/06/07	Section 40-4-16
1148	Administration: IMLRMA	11/06/07	Ch. 1; Art. VI
1153	Motor Vehicles: Stop Signs	01/08/08	Ch. 24; Schd. "A"
1155	Utilities: Water Tap-In Fees	02/05/08	Section 38-3-11
1156	Utilities: Electric Rates	02/05/08	Section 38-3-35
1157	Utilities: Sewer Tap-Ins	02/05/08	Section 38-3-28
1158	Utilities: Basic User Rate	02/05/08	Section 38-3-21
1159	Utilities: Turning Services On	02/05/08	Section 38-3-12
1160	Utilities: Measurement of Flow	02/05/08	Section 38-3-20
1161	Utilities: Non-Standard Service Voltage	02/05/08	Section 38-4-4
1162	Utilities: Deposits	02/05/08	Section 38-2-8
1163	Utilities: Billing	02/05/08	Section 38-2-1(H)(6)
1167	Motor Vehicles: Golf Carts	05/06/08	Ch. 24; Art. VIII
1170	Public Safety: Ambulance Fees	06/17/08	Ch. 30; Art. IV
1173	Zoning: Bed & Breakfast Inn	08/05/08	Secs. 40-2-2; 40-4-10
1174	Subdivision Code	09/02/08	Chapter 34
1175	Mandated Policies: Identity Theft	10/21/08	Chapter 22
1176	Administration: IMLRMA	11/04/08	Ch. 1; Art. VI
1177	Zoning: Variance: 439 N. 9 th St.	11/04/08	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1178	Tax Levy	12/16/08	Special Legislation
1179	Tax Abatement	12/16/08	Special Legislation
1180	Annexation: Voss	12/16/08	Special Legislation
1181	Electric Utility	02/17/09	Special Legislation
1182	Illinois Municipal Electric Agency	03/16/09	Special Legislation
1183	Offenses: Underage Alcohol	03/23/09	Section 27-2-31
1184	Zoning: Rezoning: McCain	04/21/09	Special Legislation
1185	Utilities: Water Rates	06/02/09	Section 38-3-10
1186	Public Safety: Ambulance Fees	06/02/09	Ch. 30; Art. IV
1187	Zoning: Fence: 320 S. Cherry St.	06/02/09	Special Legislation
1188	Prevailing Wage	06/16/09	Special Legislation
1189	Borrowing of Funds	06/16/09	Special Legislation
1190	Borrowing of Funds	06/16/09	Special Legislation
1191	Zoning: Variance: 790 N. Cherry	07/07/09	Special Legislation
1192	Appropriation	07/21/09	Special Legislation
1193	Motor Vehicles: Stop Signs	07/21/09	Ch. 24; Schd. "A"
1194	Motor Vehicles: Stop Signs	07/21/09	Ch. 24; Schd. "A"
1195	Annexation: Kampwerth	08/18/09	Special Legislation
1196	Offenses: Sex Offenders	09/01/09	Chapter 27
1197	Utilities: Basic User Rates	09/15/09	Section 38-3-21
1198	Utilities: Billings, etc.	09/15/09	Section 38-2-1(H)
1199	Motor Vehicles: No Parking	10/06/09	Ch. 24; Schd. "D"
1200	Administration: IMLRMA	11/03/09	Ch. 1; Art. VI
1201	Tax Levy	12/15/09	Special Legislation
1202	Tax Abatement	12/15/09	Special Legislation
1203	Liquor: Committee	12/15/09	Ch. 21; Art. V
1204	Mandated Policies: FOIA Officer	12/15/09	Chapter 22
1205	Administration: Salaries	02/02/10	Section 1-4-1
1206	Liquor: Licenses	04/06/10	Section 21-2-6
1207	Public Safety: Ambulance Rates	04/20/10	Ch. 30; Art. IV
1208	Motor Vehicles: Stop Signs	06/15/10	Ch. 24; Schd. "A"
1209	Motor Vehicles: Stop Signs	06/15/10	Ch. 24; Schd. "A"
1210	Appropriation	07/20/10	Special Legislation
1211	Prevailing Wage	07/20/10	Special Legislation
1212	Motor Vehicles: No Parking	08/03/10	Ch. 24; Schd. "D"
1213	Motor Vehicles: Golf Carts	08/03/10	Ch. 24; Art. VIII
1214	Zoning: Variance: 9945 President Ct.	09/07/10	Special Legislation
1215	Public Safety: Part-Time Police	09/21/10	Section 30-2-23
1216	Zoning: Variance	09/21/10	Special Legislation
1217	Administration: Business Administrator	11/02/10	Ch. 1; Art. II; Div. XI
1218	Acquisition of Real Estate	11/02/10	Special Legislation
1219	Acquisition of Real Estate	11/02/10	Special Legislation
1220	Zoning: Amendment	12/07/10	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1221	Administration: IMLRMA	12/07/10	Ch. 1; Art. VI
1222	Acquisition of Real Estate	12/07/10	Special Legislation
1223	Tax Levy	12/21/10	Special Legislation
1224	Tax Abatement	12/21/10	Special Legislation
1225	Acquisition of Real Estate	12/21/10	Special Legislation
1226	Zoning: Variance: 310 S. 5 th St.	12/21/10	Special Legislation
1227	Motor Vehicles: Stop Signs	02/15/11	Ch. 24; Schd. "A"
1228	Motor Vehicles: Stop Signs	02/15/11	Ch. 24; Schd. "A"
1229	Boards: Membership	02/15/11	Section 4-1-2
1230	Zoning: Variance: 690 N. 1 st St.	04/19/11	Special Legislation
1231	Public Safety: Ambulance Fees	06/21/11	Ch. 30; Art. IV
1233	Zoning: Amendment	07/05/11	Special Legislation
1234	Appropriation	07/19/11	Special Legislation
1235	Prevailing Wage	07/19/11	Special Legislation
1236	Annexation: Albers	07/19/11	Special Legislation
1237	Zoning: Variance: 855 S. 1 st St.	08/02/11	Special Legislation
1238	Annexation: Detmer	08/16/11	Special Legislation
1239	Zoning: Special-Use: 43 N. Main St. & 532 N. 1 st St.	09/06/11	Special Legislation
1240	Zoning: Special-Use: 110 N. 3 rd St.	10/04/11	Special Legislation
1241	Motor Vehicles: Golf Carts	10/04/11	Ch. 24; Art. VIII
1242	Zoning: Special-Use: 10506 Prairie Dr.	11/15/11	Special Legislation
1243	Administration: IMLRMA	12/06/11	Ch. 1; Art. VI
1244	Tax Levy	12/20/11	Special Legislation
1245	Tax Abatement	12/20/11	Special Legislation
1246	Abolishing and Forgiving Interfund Debt	02/21/12	Special Legislation
1247	Annexation: Clark & Cripe	02/21/12	Special Legislation
1248	Motor Vehicles: Stop Signs	02/21/12	Ch. 24; Schd. "A"
1249	Motor Vehicles: Stop Signs	02/21/12	Ch. 24; Schd. "A"
1250	Zoning: Special-Use: 620 S. Broadway	04/03/12	Special Legislation
1251	Liquor: Gambling Devices	04/03/12	Section 21-3-17
1252	Public Safety: Part-Time Police	06/05/12	Section 30-2-23
1253	Prevailing Wage	06/19/12	Special Legislation
1254	Appropriation	07/17/12	Special Legislation
1255	Zoning: Special-Use: 9555 Fieldcrest Place	08/07/12	Special Legislation
1256	Acquisition of Real Estate	08/07/12	Special Legislation
1257	Administration: Residency	08/07/12	Section 1-2-38
1258	Zoning: Variance: 230 S. Plum St.	08/21/12	Special Legislation
1259	Boards: Membership	08/21/12	Section 4-1-2
1260	TIF Registries	09/04/12	Chapter 37
1261	Motor Vehicles: Golf Carts	09/18/12	Section 24-8-3
1262	Animals: Vicious	09/18/12	Ch. 3; Art. III
1263	Comprehensive Plan	10/02/12	Special Legislation

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1264	Zoning: Amendment: Niebruegge	11/06/12	Special Legislation
1265	Administration: IMLRMA	11/20/12	Ch. 1; Art. VI
1266	TIF Redevelopment Plan	12/04/12	Special Legislation
1267	TIF Redevelopment Project	12/04/12	Special Legislation
1268	TIF Redevelopment Project	12/04/12	Special Legislation
1269	Tax Levy	12/18/12	Special Legislation
1270	Tax Abatement	12/18/12	Special Legislation
1271	Building Code	01/15/13	Ch. 6; Art. V
1272	Building Code: Fees	01/15/13	Chapter 6
1273	Gas Franchise	02/05/13	Special Legislation
1274	Vacation of Easement	02/05/13	Special Legislation
1275	Motor Vehicles: Stop Signs	02/19/13	Ch. 24; Schd. "A"
1276	Motor Vehicles: Stop Signs	02/19/13	Ch. 24; Schd. "A"
1277	Zoning: Variance: Mueth	03/19/13	Special Legislation
1278	Zoning: Variance: Maue	04/16/13	Special Legislation
1279	Abolishing and Forgiving Interfund Debt	04/16/13	Special Legislation
1280	Parks: Holiday Lighting Committee	04/16/13	Ch. 28; Art. V
1281	Zoning: Variance: Buzenski	05/07/13	Special Legislation
1282	Zoning: Variance: Brandkamp	06/03/13	Special Legislation
1283	Zoning: Variance: Reaka	06/18/13	Special Legislation
1284	Zoning: Special Uses	06/18/13	Secs. 40-4-59; 40-4-65
1285	Prevailing Wage	06/18/13	Special Legislation
1286	Zoning: Amendment	07/02/13	Special Legislation
1287	Zoning: Special-Use	07/16/13	Special Legislation
1288	Appropriation	07/16/13	Special Legislation
1289	Zoning: Variance: McCain	08/06/13	Special Legislation
1290	Zoning: Variance: Haag	08/06/13	Special Legislation
1291	Utilities: Deposits	09/03/13	Section 38-2-8
1292	Zoning: Variance: Reeves	09/17/13	Special Legislation
1293	Tax Levy	12/03/13	Special Legislation
1294	Tax Abatement	12/03/13	Special Legislation
1295	Zoning: Variance: Macke – Denied	03/18/14	Special Legislation
1296	Zoning Code: Outpatient Services	06/30/14	Section 40-4-59
1297	Zoning: Variance: Klutho	06/30/14	Special Legislation
1298	Zoning: Variance: Garcia	06/30/14	Special Legislation
1299	Zoning: Special-Use: Hospital	06/17/14	Special Legislation
1300	Zoning: Variance: Meisner	06/17/14	Special Legislation
1301	Zoning Code: Content: Holtgrave – Denied	06/17/14	Special Legislation
1302	Prevailing Wage	06/17/14	Special Legislation
1303	Appropriation	07/15/14	Special Legislation
1304	Zoning: Variance: Michels	08/05/14	Special Legislation
1305	Liquor: Hours	08/05/14	Section 21-3-1
1306	Zoning: Special-Use: Steinman	08/19/14	Special Legislation
1307	Zoning: Variance: Eilermann	08/19/14	Special Legislation
1308	Zoning: Map: Peek	08/19/14	Special Legislation
1309	Zoning Code Adopted	08/19/14	Chapter 40
1310	Motor Vehicles: Stop Signs	10/07/14	Sec. 24-3-3; Schd. "A"

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
1311	Administration: IMLRMA	11/04/14	Chapter 1
1312	Enterprise Zone	11/18/14	Special Legislation
1313	Zoning: Special-Use: Jansen	12/02/14	Special Legislation
1314	Tax Levy	12/02/14	Special Legislation
1315	Tax Abatement – 2005 TIF Series	12/02/14	Special Legislation
1316	Electric: Rates	01/20/15	Section 38-3-35

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 Breese**”. 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 immediately forwarded to the codifiers and the ordinance material shall be prepared for insertion in its proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code on an annual basis. **(See 65 ILCS 5/1-2-3)**

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

Any person having in his custody an official copy of this Code shall make every effort to maintain said Code in an up-to-date and efficient manner. He shall see to the immediate insertion of new or replacement pages when such are delivered to him or made available to him

through the office of the City Clerk. Said Code books, while in actual possession of officials and other interested persons shall be and remain the property of the City and shall be returned to the office of the Clerk upon termination of office or separation of duties.

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

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

DIVISION II - SAVING CLAUSE

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

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

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

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

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 Breese, Illinois.

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

"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 Clinton**.

"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 mission within the provisions of this Code. It does not require any knowledge of the unlawfulness of such act or omission.

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

"LEGAL HOLIDAY" shall mean the holidays as authorized and recognized by the City Council 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". The word "may" is permissive.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1-1-21 VIOLATIONS PENALTY.

(A) Any person accused of a violation of any Section of this Code, except **Chapters 34 and 40**, may settle and compromise the claim by paying to the City the sum of **One Hundred Dollars (\$100.00)** as an administrative fee within **ten (10) days** from the time such alleged offense was committed or by paying to the City Clerk the sum of **One Hundred Twenty-Five Dollars (\$125.00)** subsequent to said **ten (10) day** period and prior to such person being issued a complaint or notice to appear.

(B) The tickets issued under this Section shall be as a courtesy in lieu of arrest. If the person accused of this violation does not settle the claim, a complaint or notice to appear will be issued for that violation and the person shall be subject to the penalties set forth in **Section 1-1-19** of this Code.

1-1-22 SERVICE BY CERTIFIED MAIL. In all actions for violation of any municipal ordinance where the fine would not be in excess of **Seven Hundred Fifty Dollars (\$750.00)** and no jail term could be imposed, service of summons may be made by the municipal clerk by certified mail, return receipt requested, whether service is to be within or without the State. **(See 65 ILCS 5/1-2-9.1)**

1-1-23 APPLICATION.

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

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

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

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

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

ARTICLE II - CITY OFFICIALS

DIVISION I - CITY COUNCIL

1-2-1 CITY COUNCIL. The City Council shall consist of the Mayor and **eight (8) Aldermen, two (2) from each of the four (4) wards,** and their 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 **7:30 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 City Clerk or a designated representative. Said notices shall specify the purpose of said special meeting and the business to be taken up at that time and place. Such notice shall be posted at the City Hall and shall be provided to any local newspaper of general circulation or any local radio or television station that has filed an annual request for such notice. The notice shall be provided to such news media in the same manner as said notice is given to the Mayor and members of the City Council, provided such news media has given the City an address within the City at which such notice may be given. (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 Committee | (5) Recreation |
| | (2) Utilities | (6) Public Building & Grounds |
| | (3) Public Works | (7) Zoning |
| | (4) Public Safety | (8) Health & Welfare |

NOTE: Committee appointments are subject to change at the discretion of the Mayor. (Ord. No. 722A; 04-16-91)

(B) The committees shall be appointed every **two (2) years** by the Mayor after the municipal election.

(C) The Mayor shall be ex-officio member of each and every standing committee.

(D) The first named Alderman of each committee shall be the chairman, and in case of his absence or disability, the one next named shall act as chairman.

(E) The reports of committees shall be in writing.

(F) As provided by law, any report of a committee of the City Council shall be deferred for final action thereon to the next regular meeting of the same after the report is made, upon the request of any **two (2) Aldermen** present.

(G) Each standing committee of the City Council shall exercise a general supervision over the affairs of the department of municipal government with which it is connected; shall ascertain the condition and needs of said department; shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof may be had, and generally, shall do all acts necessary to promote the efficiency of the department.

(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 eight (8) Aldermen, a quorum is five (5), which may consist of the Mayor and four (4) Aldermen, or five (5) Aldermen.

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

1-2-8 MEMBERS REFUSING TO ATTEND. Any member of the City Council who shall neglect or refuse to attend any meeting of the City Council without good and sufficient excuse to be passed upon by the City Council shall be fined the sum of **Twenty-Five Dollars (\$25.00)** for failure to attend such meeting. No member shall receive compensation for failure to attend said meeting under the provisions of **Section 1-2-2.** **(See 65 ILCS 5/3.1-10-50 and 5/3.1-40-20)**

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

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

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

* See Section 1-2-13.

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

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

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

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

(D) **Visitors.** A person other than a member of the Council may address that body subject to the provisions of **Section 1-2-13.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Q) **Announcement and Changes of Vote.** The result of all votes by yeas and nays shall not be announced by the Clerk, but shall be handed 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 Council shall always be in order, except:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) He or she must come by the City Clerk's office during regular office hours on the Friday before the regular scheduled Council meeting and sign a request form to be placed on the Council meeting agenda to address the City Council. **(See Addendum "C")**

(B) 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.

(C) No person other than the Alderman 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.

(D) Non-members and companions with disabilities who require auxiliary aids and/or services shall notify the City Clerk **fourteen (14) days** in advance specifying the appropriate auxiliary aids or services required.

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

1-2-14 **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.

(A) 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.

(B) Auxiliary aids and services shall be provided in a timely manner.

(C) Individuals shall notify the City Clerk **fourteen (14) days** in advance specifying the appropriate auxiliary aids or services required.

DIVISION III - ORDINANCES

1-2-15 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)**

1-2-16 **RECONSIDERATION--PASSING OVER VETO.** Every resolution and motion, specified in Section 1-2-14 and every ordinance, that is returned to the City Council by the Mayor shall be reconsidered by the City Council at the next regular meeting following the regular meeting at which the Village Board receives the Mayor's written objection. If, after reconsideration, **two-thirds (2/3)** of all the Aldermen then holding office on the City Council agree at that regular meeting to pass an ordinance, resolution, or motion, notwithstanding the Mayor's refusal to approve it, then it shall be effective. The vote on the question of passage over the Mayor's veto shall be by yeas and nays, and shall be recorded in the journal. **(See 65 ILCS 5/3.1-40-50)**

1-2-17 **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)**

1-2-18 **RESERVED.**

DIVISION IV - GENERAL PROVISIONS

1-2-19 CORPORATE SEAL.

(A) The Seal provided by the City Council, consisting of the word, "Seal" with the inscription, "City of Breese, Clinton County, Illinois", around the outer edge of the seal shall be and hereby is established and declared to be the seal of the City of Breese. The City Clerk shall be the custodian of the City Seal. **(1973 Code) (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 meeting of the City Council in the month of May following the general municipal election in April. **(See 65 ILCS 5/3.1-10-15)**

(C) **Canvass.** Within **three (3) days**, and at a fairly reasonable hour after any election of members to the City Council, the Council shall canvass the returns for office, declare the result and cause a statement thereof to be entered upon its journal.

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 1-2-73)

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, until completion of his or her sentence. (65 ILCS 3.1-10-5 and 3.1-10-5(B))

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

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

(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 Thousand Dollars (\$20,000.00)** shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by this section for the award of formal contracts.

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

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

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

1-2-28 SALARIES REGULATION.

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

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

(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.

1-2-29 CLAIMS PRESENTATION.

(A) **Presentation.** All claims against the City for goods purchased, damaged, or originating in any other way, except for claims for salaries and other allowances that are fixed by ordinance, **must be presented on or before the first (1st) Monday of each month** to the City Clerk. All such claims must be in writing and items shall be specified.

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

1-2-30 MUNICIPAL YEAR. The municipal year of the City shall begin on **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. Each member of the corporate authorities may receive reimbursement from the municipality for expenses incurred by the member in attending committee meetings of the corporate authorities or for other expenses incurred by the member in the course of performing official duties. **(See 65 ILCS 5/3.1-50-15(B))**

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

1-2-33 FEDERAL OLD AGE AND SURVIVOR'S INSURANCE SYSTEM.

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

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

1-2-34 ILLINOIS MUNICIPAL RETIREMENT FUND.

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

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

(C) The City does hereby elect to exclude from participation in the Illinois Municipal Retirement Fund all officials and employees in positions normally requiring performance of duty for less than **one thousand (1,000) hours** per year.

(D) This exclusion shall apply only to officials and employees who first occupy offices or positions under the Fund after adoption of this Section. **(Ord. No. 674A; 07-18-89)**

1-2-35 **CERTIFICATES OF INSURANCE.** All contractors and sub-contractors doing work for the City shall first provide a Certificate of Insurance indicating Worker's Compensation and Employers' Liability coverage and the policy limits for such coverage. **(Ord. No. 457; 06-11-74)**

1-2-36 **EMPLOYEES.**
(A) Except as otherwise provided herein and as provided in paragraph (B) herein, all employees of the City must be residents of the City at the time of commencement of employment with the City. This shall not apply to any corporation, firm or person rendering professional services to the City.

(B) All full-time paramedic employees of the Ambulance Department of the City shall reside within a **thirty (30) mile** radius of the current location of the City Hall of the City of Breese at the time of commencement of their employment with the City or as soon thereafter as required by the Mayor. **(Ord. No. 1257; 08-07-12)**

1-2-37 - 1-2-39 **RESERVED.**

DIVISION V - VACANCIES

1-2-40 **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 1-2-44**, 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.

1-2-41 **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.

1-2-42 **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 1-2-44 or 1-2-45**.

(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.

1-2-43 ELECTION OF AN ACTING MAYOR. The election of an acting Mayor pursuant to **Section 1-2-45 or 1-2-46** 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.

1-2-44 APPOINTMENT TO FILL ALDERMAN VACANCY. An appointment by the Mayor or acting Mayor, as the case may be, of a qualified person as described in **Section 1-2-23** of this Code to fill a vacancy in the office of Alderman must be made within **sixty (60) days** after the vacancy occurs. Once the appointment of the qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment fails to receive the advice and consent of the corporate authorities within **thirty (30) days**, the Mayor or acting Mayor shall appoint and forward to the corporate authorities a second qualified person as described in **Section 1-2-23**. Once the appointment of the second qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment of the second qualified person also fails to receive the advice and consent of the corporate authorities, then the Mayor or acting Mayor, without the advice and consent of the corporate authorities, may make a temporary appointment from those persons who were appointed but whose appointments failed to receive the advice and consent of the corporate authorities. The person receiving the temporary appointment shall serve until an appointment has received the advice and consent and the appointee has qualified or until a person has been elected and has qualified, whichever first occurs.

1-2-45 **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 1-2-43**, 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 1-2-44**.

(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.

1-2-46 **VACANCIES DUE TO ELECTION BEING DECLARED VOID.** In cases of vacancies arising by reason of an election being declared void pursuant to **Section 1-2-42(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.

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

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

DIVISION VI - MAYOR

1-2-50 **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)**

1-2-51 **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)**

1-2-52 **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)**

1-2-53 **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)**

1-2-54 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)**

1-2-55 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)**

1-2-56 DESIGNATION OF OFFICERS' DUTIES. Whenever there is a dispute as to the respective duties or powers of any appointed officer of the City, this dispute shall be settled by the Mayor, after consultation with the City Attorney; and the Mayor shall have the power to delegate to any appointive officer, any duty which is to be performed when no specific officer has been directed to perform that duty.

1-2-57 FORMAL OCCASIONS. The Mayor shall act for and on behalf of the City on formal occasions and receptions, but in the absence or inability to attend any such function, the Mayor may select any other City officer to so act.

1-2-58 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)

1-2-59 BUSINESS LICENSE COMMISSIONER. The Mayor is hereby designated as License Commissioner to issue and revoke any and all business licenses as prescribed by law, with the advice and consent of the City Council.

1-2-60 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)

1-2-61 HEALTH COMMISSIONER. The Mayor is hereby declared to be Health Commissioner with all powers to abate and remove all nuisances or health hazards within the jurisdictional boundaries of the City authority as prescribed by law.

1-2-62 ECONOMIC DEVELOPMENT DIRECTOR. The Mayor shall perform all duties assigned to the Economic Development Director in **Article II of Chapter 4. (Ord. No. 870; 03-18-97)**

1-2-63 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)

1-2-64 - 1-2-65 RESERVED.

DIVISION VII - CITY CLERK

1-2-66 **ELECTED.** The Clerk shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until a successor is elected and has qualified. **(See 65 ILCS 5/3.1-15-5 and 5/3.1-30-5)**

1-2-67 **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)**

1-2-68 **PUBLICATION OF ORDINANCES; COUNCIL MINUTES; RECORDS.**

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

(B) **Minutes; Records.**

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

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

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

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

1-2-69 **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)

1-2-70 **PREPARATION OF DOCUMENTS, COMMISSIONS AND LICENSES.** The Clerk shall prepare all commissions, licenses, permits and other official documents required to be issued by him or her under this Code and shall attest the same with the corporate seal, and the Clerk shall, in like manner, attest all deeds for the sale of real estate owned and conveyed by this City.

1-2-71 **REPORT OF LICENSES.** The Clerk shall report to the City Council at its regular meeting each month and more often if the Council so requires the data contained in the license register with respect to licenses issued during the previous month.

1-2-72 **DELIVERY OF 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 deliver such plates, tags, or stickers to the person paying the license fee.

1-2-73 **ADMINISTRATION OF OATHS.** The Clerk shall have the power to administer oaths or affirmations for all lawful purposes. (See 65 ILCS 5/3.1-15-20)

1-2-74 **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)

1-2-75 **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.

1-2-76 **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)**

1-2-77 **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.

1-2-78 **NOTIFICATION TO PERSONS APPOINTED TO OFFICE.** Within **five (5) days** after an appointment is made, the Clerk shall notify all persons appointed to office of their appointment. The office becomes vacant unless the person appointed qualifies within **ten (10) days** after such notice.

1-2-79 **OTHER DUTIES.** In addition to the foregoing duties, the Clerk shall perform all such other duties pertaining to the office as are or may be imposed upon the office by law or resolution or ordinance of the City Council. **(See 65 ILCS 5/3.1-10-40)**

1-2-80 **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)

1-2-81 - 1-2-82 **RESERVED.**

DIVISION VIII - CITY TREASURER

1-2-83 **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.

1-2-84 **TREASURER ELECTED; VACANCY.** The Treasurer shall be elected at the same election as the Mayor for a **four (4) year term** and shall serve until a successor is elected and has qualified. All vacancies shall be filled in the manner prescribed in **Division V** of this Chapter. (See **65 ILCS 5/3.1-30-5**)

1-2-85 **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**)

1-2-86 **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**)

1-2-87 **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**)

1-2-88 **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**)

1-2-89 **SPECIAL ASSESSMENTS.** The Treasurer shall collect all payments on special assessments and shall see to it that the same are properly recorded and credited to the particular account entitled thereto. **(See 65 ILCS 5/3.1-35-85)**

1-2-90 **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)**

1-2-91 **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)**

1-2-92 **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.

1-2-93 **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.]

1-2-94 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)**

1-2-95 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 1-2-95(F)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and monies of the City in the custody of the Treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the Village Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

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

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

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

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

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

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

- (1) First Bank, Breese, Illinois.
- (2) Germantown Trust and Savings, Germantown, Illinois.
- (3) Community Bank of Trenton.
- (4) Tempo Bank, Breese, Illinois
- (5) State of Illinois Public Treasurer Investment Pool (IPTIP).

1-2-96 - 1-2-97 RESERVED.

DIVISION IX - JUDICIARY

1-2-98 **APPOINTMENT OF ATTORNEY.** The Attorney shall be appointed by the Mayor, by and with the advise and consent of the City Council for the term of **one (1) year**, unless sooner removed for cause, and until a successor shall have been appointed and qualified. The Attorney shall have full charge of the law affairs of the City and shall be known as the City Attorney, and shall receive reasonable fees for services rendered when, in his or her judgment, or in the judgment of the Mayor or City Council, the same are necessary or are for the best interests of the City. **(See 65 ILCS 5/3.1-30-5)**

1-2-99 **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, 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.

1-2-100 - 1-2-104 **RESERVED.**

**DIVISION X - CODE ENFORCEMENT OFFICER
(ZONING ADMINISTRATOR)**

1-2-105 **CREATION OF OFFICE.** There is hereby created the executive position of Zoning Administrator, which officer and organizational personnel shall be appointed by the Mayor, with the advice and consent of the City Council. He shall also serve as the Building Inspector, Flood Plain Inspector, and as the Code Enforcement Officer.

1-2-106 **DUTIES.** The Zoning Administrator or his authorized representative shall administer and enforce the Zoning Code as amended from time to time, and is in effect in accordance with the powers and duties therein set forth, and in furtherance of such authority shall:

(A) Issue all building permits and zoning certificates and make and maintain records thereof.

(B) Issue all certificates of occupancy and make and maintain records thereof.

(C) Issue "Temporary Certificates of Zoning Compliance" as authorized by the Zoning Code.

(D) Conduct inspections of buildings, structures, and land to determine compliance with the Zoning Code and to notify, in writing, the person responsible for any violation found, indicating the nature of the violation and ordering the action necessary to correct it.

(E) Order the discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by statute or by the Zoning Code to ensure compliance with or to prevent violation of the provisions.

(F) Prepare and cause to be published **on or before March 31st of each year**, a map showing the existing zoning uses, divisions, restrictions, regulations, and classifications in effect on the **preceding December 31st**.

(G) Maintain permanent and current records of the Zoning Code including, but not limited to, all maps, amendments, special-use permits, planned building developments, variances, appeals, and applications therefor.

(H) Provide and maintain a source of public information relative to all matters arising out of the Zoning Code.

(I) Receive, file, and forward to the Plan Commission all applications for amendments, use variances and special-use permits, and other matters upon which the Plan Commission is required to act under the Zoning Code.

(J) Receive, file, and forward to the Zoning Board of Appeals all applications for variances, appeals, and other matters upon which the Board is required to act under the Zoning Code.

(K) Keep the Mayor and City Council advised of zoning activities by written report once each month, including statements of permits and certificates issued and orders promulgated.

(L) The Zoning Administrator may request and shall receive so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Chief of Police in

enforcing orders, of the City Attorney in prosecuting violators, and of other City officials and officers.

(M) The Zoning Administrator shall perform other duties as a Code Enforcement Officer as prescribed by codes and laws of the City, and as may be specifically assigned to him by the City Council. Such codes and laws may include, but not be limited to, the Mobile Housing Code, the Subdivision Code, and the Building Code, as adopted and amended from time to time by the City Council.

1-2-107 - 1-2-112

RESERVED.

DIVISION XI - CITY ENGINEER

1-2-113 APPOINTMENT - DESIGNATED CODE ENFORCEMENT OFFICER AND BUILDING COMMISSIONER. The Mayor, with the advice and consent of the City Council may appoint an Engineer for the City, who shall serve for the term of the Mayor, or for such period not exceeding the term of the Mayor, as may be designated by the Mayor and the City Council.

1-2-114 DUTIES - SALARY. The Engineer for the City shall make and submit plans, estimates and specifications for any public work which may be proposed or ordered by the City Council. He shall also examine all public works under his charge and see that the plans, estimates and specifications for the same are properly executed. He shall receive a salary as established in the annual budget.

1-2-115 - 1-2-116

RESERVED.

DIVISION XII – MANAGEMENT OF DEPARTMENT OF PUBLIC WORKS

1-2-117 CREATION OF POSITION OF UTILITIES PLANT OPERATIONS MANAGER. There is hereby created the office of Utilities Plant Operations Manager, who shall be appointed by the Mayor with the advice and consent of the City Council.

1-2-118 DUTIES OF UTILITIES PLANT OPERATIONS MANAGER. The Utilities Plant Operations Manager shall be responsible for managing, directing, planning, and supervising activities of the public utilities plants (electric, water, wastewater and electric distribution system), contributing to the administration of the Public Works Department, including planning capital improvements, department budget, and engineering the designs/specifications for all capital projects. The Utilities Plant Operations Manager shall work with the Public Works Manager and the City Business Administrator in the management of the Department of Public Works. The Utilities Plant Operations Manager shall serve at the pleasure of the Mayor.

1-2-119 CREATION OF POSITION OF PUBLIC WORKS MANAGER. There is hereby created the office of Public Works Manager, who shall be appointed by the Mayor with the advice and consent of the City Council.

1-2-120 DUTIES OF PUBLIC WORKS MANAGER. The Public Works Manager shall be responsible for managing, directing, planning and supervising activities of the Water Distribution, Sewer Collection, Streets and Drainage Divisions of the Department of Public Works as well as contribute to the administration of the Public Works Department, including planning capital improvements, department budget, and engineering the designs/specifications for all capital projects. The Public Works Manager shall work with the Utilities Plant Operations Manager and the City Business Administrator in the management of the Department of Public Works. The Public Works Manager shall serve at the pleasure of the Mayor.

1-2-121 - 1-2-124 RESERVED.

(Ord. No. 1217; 11-02-10)

DIVISION XIII – CITY BUSINESS ADMINISTRATOR

1-2-125 CREATION OF POSITION OF CITY BUSINESS ADMINISTRATOR.

There is hereby created the office of City Business Administrator, who shall be appointed by the Mayor with the advice and consent of the City Council.

1-2-126 DUTIES OF CITY BUSINESS ADMINISTRATOR. The City Business Administrator shall administer, plan, organize and direct the business activities of the City of Breese and its Departments, including budgeting, financial reporting, contracting, Tax Increment Financing, Grant Writing, personnel management and training, coordinate activities with City Departments, staff and outside agencies, coordinate project efforts with division superintendents and assistants, direct and supervise the development, analysis, preparation and control of the City budget, develop fiscal control systems, review and monitor budget activities. The City Business Administrator shall serve at the pleasure of the Mayor.

1-2-127 - 1-2-129 RESERVED.

(Ord. No. 1217; 11-02-10)

DIVISION XIV - CITY HALL COMMITTEE

1-2-130 DEPARTMENT ESTABLISHED. There is hereby established a department of the municipal government of the City, which shall be known as the City Hall Department. It shall embrace the City Council standing committee on City Hall and such employees as may, from time to time, be employed in the service of the department.

1-2-131 COMMITTEE ON CITY HALL. The City Council standing committee on City Hall shall exercise a general supervision over the affairs of the 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 acts necessary to promote the efficiency of the department.

1-2-132 - 1-2-133 RESERVED.

DIVISION XV – CITY COLLECTOR

1-2-134 **APPOINTED.** There is hereby created the office of City Collector. The City Collector shall be appointed by the Mayor by, and with the advice and consent of the City Council.

1-2-135 **DUTIES.**

(A) The City Collector shall preserve all warrants returned to him, and he shall keep his books and accounts in the manner that the City Council may prescribe.

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

(C) The City Collector shall pay weekly to the City Treasurer all moneys collected by him from any source whatever, taking the City Treasurer's receipt therefore in duplicate and filing **one (1)** of the receipts immediately with the Mayor.

(D) The City Clerk may also serve as the City Collector.

1-2-136 **RESERVED.**

(Ord. No. 997; 10-17-00)

ARTICLE III - WARDS

1-3-1 **WARD BOUNDARIES.**

(A) **Ward 1** consists of the land within the City limits North of the CSX Railroad and South of North 6th Street including the Breese Elementary School District #12, Becker Business Park, Clinton County Rehabilitation Center, Inc. and Prairie Estates properties.

(B) **Ward 2** consists of the land within the City limits located South of the CSX Railroad.

(C) **Ward 3** consists of the land within the City limits located East of the Breese-Jamestown Road, a/k/a Walnut Street and North of North 6th Street.

(D) **Ward 4** consists of the land within the City limits located West of the Breese-Jamestown Road, a/k/a Walnut Street and North of North 6th Street as designated on the Breese Zone District Map.

(Ord. No. 1016; 07-24-01)

1-3-2 - 1-3-3 **RESERVED.**

ARTICLE IV - SALARIES

1-4-1 SALARIES OF OFFICIALS.

(A) **Mayor.** The salary of the Mayor shall be **Thirty-Five Thousand Dollars (\$35,000.00)** per year.

(B) **City Treasurer.** The salary of the City Treasurer shall be **Three Thousand Dollars (\$3,000.00)** per year.

(C) **City Clerk.** The salary of the City Clerk shall be **Three Thousand Dollars (\$3,000.00)** per year.

(D) **Aldermen.**

(1) **Regular, Special or Finance Meeting.** Aldermen shall be paid per diem at the rate of **One Hundred Dollars (\$100.00)** per regular meeting, special meeting or finance meeting.

(2) **Committee Meetings.** Aldermen shall also be paid a stipend in the amount of **Twenty Dollars (\$20.00)** for each committee meeting actually attended, not to exceed **five (5) meetings** in **one (1) month.**

(E) **Per Diem for Certain Out of Town Meetings.** Elected officials shall be paid an additional per diem of **Seventy-Five Dollars (\$75.00)** per day for each meeting actually attended in performance of their duties for the City of Breese, which is held outside the City limits of the City of Breese and lasts more than **three (3) hours** exclusive of travel time or which requires an overnight stay.

Subparagraphs (D)(2) and (E) herein shall become effective for each respective elected official only after he or she is elected and seated following any election held after the date this Article is adopted and only after the commencement of that new term.

(Ord. No. 1205; 02-02-10)

(See 65 ILCS 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 - MANAGEMENT ASSOCIATION

1-5-1 PARTICIPATION. The City Council does hereby authorize and approve membership in the Illinois Municipal League Risk Management Association and directs the Mayor and Clerk to execute an Intergovernmental Cooperation Contract with the Illinois Municipal League Risk Management Association for membership for a period of **one (1) year** beginning the date the Association commences providing risk coverage to its members and each year thereafter unless this ordinance is repealed.

1-5-2 CONTRIBUTION. Each member hereby agrees to contribute to the Association a sum of money to be determined by the Association at the time of application based on the needs of the Association and the loss experience of the Member, which sum shall constitute the cost of the Member's first year contribution for membership in the Association. Membership contributions for second and subsequent years shall be calculated in accordance with the loss experience of the City, and the needs of the Association including total losses and expenditures of the Self-Insured Retention Fund of the Association.

(Ord. No. 1265; 11-20-12)

ARTICLE VI – MEETING PROCEDURES

DIVISION I – RECORDING CLOSED MEETINGS

1-6-1 **RECORDING CLOSED SESSIONS.** The City shall keep a verbatim record of all closed or executive session meetings of the corporate authorities of the City or any subsidiary “public body” as defined by the Illinois Open Meetings Act, **5 ILCS 120/1**. The verbatim record shall be in the form of an audio or video recording as determined by the corporate authorities. **(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”, that permits a member of the public body to attend and participate in any meeting of a public body as defined in the Open Meetings Act from a remote location via telephone, video, or internet connection provided that such attendance and participation is in compliance with the policy and any applicable laws.

ADDENDUM "A"

GOVERNMENTAL UNIT
REMOTE ATTENDANCE POLICY

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

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

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

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

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

(E) **Minutes.** The member participating remotely shall be considered an off-site participant and counted as present by means of video or audio conference, for that meeting of the members 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.

ADMINISTRATION ADDENDUM "B"

ADDENDUM "B"

NOTICE OF REQUEST FOR PLACEMENT UPON CITY COUNCIL AGENDA

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.

ADMINISTRATION ADDENDUM "C"

ADDENDUM "C"

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: _____

CHAPTER 3

ANIMALS

ARTICLE I – GENERAL REGULATIONS

3-1-1 **DEFINITIONS.**

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

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

"DEPARTMENT OF AGRICULTURE" means the Department of Agriculture of the State of Illinois.

"DOG". Whenever "dog" is used in this Code, it shall include any canine, female as well as a male dog, regardless of age.

"INOCULATION AGAINST RABIES" means the injection subcutaneously or otherwise as approved by the Department of Agriculture of the State of Illinois of canine anti-rabic vaccine, approved by the Department of Agriculture.

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

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

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

"SHELTER", as it applies to dogs, shall mean a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a solid floor raised at least **two 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.

"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.

3-1-2 **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.

3-1-3 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.

(C) **Tethering.**

(1) No person shall:

(a) Continuously tether an unattended dog for more than **one (1) hour** at a time;

(b) Tether an unattended dog for more than **three (3)** total hours in **one (1) day** (there must be a minimum of a **three (3) hour** interval between unattended tethering);

(c) Tether a dog with a leash, chain or other tethering device that is less than **ten (10) feet** in length.

(2) **General.** All tethering devices must be attached to a collar or harness in such a way as to avoid injury. A tether in device shall weigh no more than **one-eighth (1/8)** of the animal's body weight and cannot, due to weight, inhibit the free movement of the animal within the tethering area. A dog must not be tethered in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees or other man made or natural obstacles.

(3) **Fine/Penalty.** Persons found in violation of this Section shall be subject to a penalty of **Seventy-Five Dollars (\$75.00)** per day for any violation which occurs after an initial written warning. **(Ord. No. 1136; 05-01-07)**

3-1-4 DOGS AND CATS IN PUBLIC PLACES. No dog or cat, unless on a leash, shall be permitted in any cemetery or shall be allowed in any parks, swimming areas or beaches open to the public in the City.

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) **Unlawful Cruelty; Exceptions.** 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 3-1-1.**

3-1-7 KEEPING WILD OR VICIOUS ANIMALS.

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

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

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

(D) The licensing authority may issue a temporary permit for the keeping, care, and protection of any infant animal native to this area which has been deemed to be homeless. **(See Definitions in Section 3-1-1)**

3-1-8 ANIMALS IN CITY.

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

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

(C) **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 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 3-1-1.**

(B) **Limitation; Exception.**

- (1) It shall be unlawful for any person or persons to keep more than **three (3) dogs** and/or **three (3) cats** within the City, with the exception that a litter of pups, a litter of kittens or a portion of a litter may be kept for a period of time not exceeding **five (5) months** from birth.
- (2) The provisions of this Section shall not apply to any establishment wherein dogs or cats are kept for breeding, sale, sporting purposes or boarding.

ARTICLE II - DOGS

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

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

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

(B) The rabies tag issued shall be in such form as shall be determined by the Department of Agriculture.

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

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

3-2-5 **EXHIBITION OF CERTIFICATE UPON REQUEST.** At any reasonable time upon request of any member of the Police Department or City employee, the owner or keeper of any unmuzzled dog shall exhibit his certificate issued under the provisions of **Section 3-2-3**, showing the inoculation against rabies of any dog owned or controlled by him.

3-2-6 **RESTRAINT OF DOGS.** The owner or keeper of a cat or dog shall keep the cat or dog under restraint at all times and shall not permit such cat or dog to be at large, off the premises of the property of the owner or keeper, unless the cat or dog is under complete control as defined in **Section 3-1-1**.

3-2-7 IMPOUNDMENT OF DOGS RUNNING AT LARGE OR UNLICENSED DOGS; CITATION OF OWNER OR KEEPER.

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

(B) When dogs are found running at large or unlicensed and their ownership is known to the designated employees, such dogs may be impounded at the discretion of such employees, but the employees 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.

3-2-8 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.

3-2-9 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.

3-2-10 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 **fourteen (14) 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 **fourteen (14) days** no symptoms of rabies have developed in such dog so impounded, the same may be redeemed by the owner upon payment of the redemption fees and charges specified by this Chapter; provided, however, that in case any dog so impounded for biting a person shall have previously bitten any person, such dog shall be humanely destroyed by the poundkeeper. After having been notified that his dog has bitten or otherwise injured any person, the owner or keeper thereof shall not, under any circumstances, permit such animal to be at large unless securely muzzled.

3-2-11 **METHOD OF 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.

3-2-12 **REDEMPTION OF IMPOUNDED DOGS.** Any dog impounded under the provisions of this Chapter, except such as may have bitten any person as specified in **Section 3-2-10** of this Chapter shall, unless sooner redeemed, be held for the period of **five (5) days** in order to afford opportunity to the owner or keeper thereof to redeem the same. Any such owner or keeper thereof desiring to redeem his impounded dog shall pay an impounding fee of **Ten Dollars (\$10.00)** and also shall pay the cost of keeping such dog while impounded at the rate of **Five Dollars (\$5.00)** per day. The owner shall show proof of inoculation.

3-2-13 **CITY POUND DESIGNATED.** The City Council shall designate a City Pound.

3-2-14 **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.

3-2-15 **DANGEROUS DOG - FEMALE DOG AT LARGE.** It shall be unlawful for the owner or keeper of any fierce or dangerous dog or of any female dog, while in heat, to run at large within the limits of this City.

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

ARTICLE III – VICIOUS AND DANGEROUS DOGS

3-3-1 **LEGISLATIVE INTENT.** This Article is adopted pursuant to the powers granted to municipalities in **Paragraphs 5/11-20-9 of Chapter 65, Illinois Compiled Statutes, as amended.**

3-3-2 **DEFINITIONS.** For the purpose of this Article the following terms and phrases shall have the meanings set forth in this Section.

"BITE" means to seize or cut with the teeth.

"COMPANION ANIMAL". An animal that is lawfully kept as a pet or domestic animal kept in the home or structure on the residence of the owner of the animal.

"CONFINEMENT STRUCTURE" means a securely locked pen, kennel or structure designed and constructed for the keeping of an animal and shall be designed, constructed and maintained in accordance with the standards provided herein. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine vicious or dangerous dogs must be locked with a key or combination lock when such dogs are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than **two (2) feet**. All structures erected to house vicious or dangerous dogs must comply with all City Zoning and Building regulations. All such structures must be adequately lighted, ventilated and kept in a clean and sanitary condition.

"FIGHT" means a prearranged conflict between **two (2)** or more vicious or dangerous dogs, but does not include a conflict that is not organized or accidental.

"K-9 PATROL DOG OR POLICE DOG" means a professionally trained dog used by law enforcement officers for law enforcement purposes and activities.

"LEASH" means a cord, chain, rope, strap or other such physical restraint having a tensile strength of not less than **three hundred (300) pounds**.

"MUZZLE" means a device constructed of strong, soft material or a metal muzzle. The muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

"NIP" means to pinch or squeeze with teeth with no breaking of skin or tissue.

"POTENTIALLY DANGEROUS DOG" means a dog that is unsupervised and found running at large; or a dog that has threatened harm to a person or companion animal; or has placed a person in apprehension of their personal safety or the safety of a companion animal.

"RUNNING AT LARGE" means the failure to confine a vicious or dangerous dog to the premises of owner or harbinger of that dog with a "leash" as defined herein.

"VICIOUS OR DANGEROUS DOG" means any dog that has, without provocation, attacked a human being or companion animal, or, by its behavior or physical condition, constitutes an immediate and serious physical or health threat to human beings or companion animals, or any dog which has previously, without provocation, attacked, threatened, or bitten any human being or companion animal on at least **one (1)** or more reported occasions; there shall be a presumption that an attack is unprovoked when it occurs off the premises of the residence of the owner or harbinger of the dog, or the attack is upon a child under the age of **twelve (12)**.

3-3-3 KEEPING OF VICIOUS OR DANGEROUS DOGS PROHIBITED. It shall be unlawful to keep, harbor, own, or in any way possess within the corporate limits of the City, any vicious or dangerous dog which has, without provocation, attacked a human being or companion animal, causing harm to that person or animal. If it is determined that a person is keeping or harboring a vicious or dangerous dog, as defined herein, which has, without provocation, attacked or threatened to attack a human being or companion animal, that dog shall be permanently removed from the City within **forty-eight (48) hours** of the notification by a member of the Police Department that the dog has been deemed a vicious and dangerous dog. If the dog has attacked or caused harm to a person, the dog will be subject to immediate seizure and confinement as provided in **Section 3-3-4** herein.

3-3-4 LICENSING OF VICIOUS OR DANGEROUS DOGS.

(A) A vicious or dangerous dog, as defined herein, which has not attacked or caused harm to a person or companion animal, must be licensed by the City within **forty-eight (48) hours** of being notified to do so by City Police.

(B) An application for a license to possess a vicious or dangerous dog, as defined herein, shall be filed with the City Clerk on a form prescribed and provided by the City Clerk and shall be accompanied by all of the following:

- (1) Verification of the identity of the owner and current address by providing a copy of the owner's driver's license;
- (2) proof of ownership of the animal;
- (3) a copy of the current immunization and health record of the animal prepared by a veterinarian licensed to practice in the State of Illinois;
- (4) a Certificate of Insurance evidencing coverage in the amount of not less than **Five Hundred Thousand Dollars (\$500,000.00)** providing coverage for any injury, damage or loss caused by the animal;
- (5) **two (2)** photographs of the animal to be licensed taken not less than **one (1) month** before the date of the application. **One (1)** photograph shall provide a front view of the animal and shall clearly show the face and ears of the animal. **One (1)** photograph shall show the side view of the animal;
- (6) a license fee of **Fifty Dollars (\$50.00)**;
- (7) such other information as required by the City Clerk.

(C) Upon receipt of an application, the City Clerk shall forward such application to the Police Department which shall cause an inspection of the premises on which the vicious or dangerous dog, as defined herein, shall be kept to determine that all provisions of this Code relating to confinement and posting of signs have been complied with by the applicant. Upon completion of the inspection, the Police Department shall notify the City Clerk, in writing, of the results of the inspection.

(D) Upon receipt of the results of the Police Department inspection, the City Clerk shall notify the applicant of the approval or denial of the license. In the event that the license is denied, the notification shall be provided in writing and the reasons for such denial shall be stated. Upon approval, the City Clerk shall issue a license to the applicant.

3-3-5 **CONFINEMENT OF VICIOUS AND DANGEROUS DOGS.** No person shall possess any vicious or dangerous dog as defined herein, unless the animal is confined in accordance with this Article.

(A) **Confinement Indoors.** No vicious or dangerous dog may be kept on a porch, patio, or in any part of a house or structure what would allow the animal to exit the structure on its own volition. No vicious or dangerous dog shall be kept in a house or structure when a window is open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(B) **Confinement in an Exterior Yard.** No person shall confine a vicious or dangerous dog in an exterior area unless the animal is confined in a "Confinement Structure" constructed and maintained in accordance with this Code, except that a vicious or dangerous dog may be confined outside of a "confinement structure" in a manner set forth as provided in paragraph (C) below.

(C) **Confinement on a Leash.** No person shall permit a vicious or dangerous dog to go outside a confinement structure, house, or other structure unless the animal is securely restrained with a leash no longer than **four (4) feet** in length and fitted with a muzzle. No person shall permit a vicious or dangerous dog to be kept on a leash unless a person is in physical control of the leash. No leash restraining any vicious or dangerous dog shall be attached to any inanimate object including, but not limited to, trees, posts, stakes, and buildings.

3-3-6 **REPORTING REQUIREMENT OF LICENSEE.** Any person holding a license pursuant to the Article shall report the incidence of any of the following events:

(A) The escape from confinement of any animal required to be licensed herein;

(B) The biting or nipping of any person or companion animal by an animal required to be licensed herein;

(C) The permanent removal of any animal required to be licensed herein shall be reported within **forty-eight (48) hours** of such removal and surrender of the license of the owner to the City Clerk.

The report of any incident required to be reported under this Article shall be made to the City Police Department.

3-3-7 **SIGN REQUIRED.** All persons possessing a vicious or dangerous dog, as defined herein, shall display in a prominent place on the premises where such animal is to be kept, a sign which is readable by the public from a distance of not less than **one hundred (100) feet** using the words "**BEWARE OF DOG**". A similar sign shall be posted on any confinement structure.

3-3-8 **IMPOUNDMENT OF A VICIOUS OR DANGEROUS DOG.** Any vicious or dangerous dog, which has, without provocation, attacked or harmed a human being or companion animal, shall be subject to immediate impoundment by the Police Department in a humane facility for the keeping of dogs. If the incident giving rise to the impoundment has resulted in an injury to a person, upon impoundment by the Police Department, the Chief of Police or his designee shall notify the Rabies Control Administrator of the county pursuant to **Paragraph 5/12 of Chapter 510, Illinois Compiled Statutes, as amended**, and shall transfer control of the animal to the Administrator in accordance with **Paragraph 5/13 of Chapter 510, Illinois Compiled Statutes, as amended**.

3-3-9 **IMPOUNDMENT OF VICIOUS OR DANGEROUS DOG RUNNING AT LARGE.** Any dog deemed to be a vicious or dangerous dog, as defined herein, found to be running at large by any member of the City Police Department shall be subject to impoundment by the Police Department in a humane facility for the keeping of dogs.

3-3-10 **REDEMPTION OF IMPOUNDED VICIOUS OR DANGEROUS DOG.**
An owner of a vicious or dangerous dog, which has been impounded as provided herein, may redeem such animal if:

(A) a vicious or dangerous dog has not been impounded pursuant to **Section 3-3-9** of this Code; or

(B) the vicious or dangerous dog which has not caused an injury to a person, subject to the following conditions:

- (1) Proof of a valid license issued by the City under the Code;
- (2) Payment of the cost of keeping the vicious or dangerous dog during the period of impoundment;
- (3) Proof that the vicious or dangerous dog will be kept outside City limits, if the animal has been impounded more than **one (1)** other time under this Section.

(C) An owner of a vicious or dangerous dog which has caused an injury to a person resulting in the impoundment of the vicious or dangerous dog shall be entitled to redeem the vicious or dangerous dog in accordance with **Paragraph 5/13 of Chapter 510 of the Illinois Compiled Statutes, as amended.**

3-3-11 **EXCEPTIONS.** This Code shall not apply to any K-9 Patrol Dogs or Police Dogs as defined herein.

3-3-12 **PENALTIES.** Upon conviction of a violation of this Article the Court shall assess a fine of not less than **One Hundred Twenty-Five Dollars (\$125.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00).**

Upon a finding by the Court that a licensee has violated this Article of this Code, the Court shall enter an Order revoking the license and ordering the former holder of the license to remove the vicious or dangerous dog from the City.

3-3-13 **FAILURE TO COMPLY.** It shall be unlawful for the owner, keeper, or harbinger of a vicious or dangerous dog, as defined herein, to fail to comply with the conditions set forth in this Code. Any vicious or dangerous dog found to be the subject of a violation of this Code shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal, resulting in the immediate removal of the animal from the City.

(Ord. No. 1262; 09-18-12)

CHAPTER 4

BOARDS AND COMMISSIONS

ARTICLE I - PLAN COMMISSION

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

4-1-2 **MEMBERSHIP.** The Plan Commission shall consist of **seven (7) members; five (5)** of said members must be residents of the City; **two (2)** of said members may reside within a **one and one-half (1 ½) mile** radius of the City limits. The members shall be appointed by the Mayor on the basis of their particular fitness for their duty on the Plan Commission and their appointment shall be subject to the approval of the City Council. **(Ord. No. 1259; 08-21-12)**

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

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

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

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

All requirements for public hearing, filing of notice of adoption with the County Recorder of Deeds, and filing of the plan and ordinances with the City Clerk shall be complied

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

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

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

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

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

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

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

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

4-1-6 LAND SUBDIVISION OR RE-SUBDIVISION AND THE OFFICIAL MAP.

At any time or times before or after the formal adoption of the official comprehensive plan by the corporate authorities, an official map may be designated by ordinance, which may consist of the whole area included within the official comprehensive plan or one or more geographical or functional parts and may include all or any part of the contiguous unincorporated area within **one and one-half (1 1/2) miles** from the corporate limits of the City. All requirements for public hearing, filing notice of adoption with the County Recorder of Deeds and filing of the plan and ordinances, including the official map with the Clerk shall be complied with as provided for by law. No map or plat of any subdivision or re-subdivision presented for record affecting land within the corporate limits of the City or within contiguous territory which is not more than **one and one-half (1 1/2) miles** beyond the corporate limits shall be entitled to record or shall be valid unless the subdivision shown thereon provides for standards of design and standards governing streets, alleys, public ways, ways for public service facilities, street lights, public grounds, size of lots to be used for residential purposes, and distribution, sanitary sewers, and sewage collection and treatment in conformity with the applicable requirements of the Code, including the official map. **(See 65 ILCS Sec. 5/11-12-12)**

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

4-1-8 **FURTHER PURPOSES.** The Commission shall recommend the boundaries of districts for land use and shall recommend regulations to the corporate authorities for the following:

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

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

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

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

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

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

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

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

4-1-9 **EXPENDITURES.** Expenditures of the Commission shall be at the discretion of the City Council and if the Commission shall deem it advisable to secure technical advice or services, it shall be done upon authority of the City Council and appropriations by the City Council therefor. **(See 65 ILCS Sec. 5/11-12)**

ARTICLE II

ECONOMIC DEVELOPMENT COMMISSION

4-2-1 **ESTABLISHED.** There is hereby established the Breese Economic Development Commission, hereinafter referred to as the Commission.

4-2-2 **RESERVED.** (Ord. No. 870)

4-2-3 **DUTIES OF DIRECTOR.** The Director of the Economic Development Commission shall:

- (A) Attend all the regular meetings of the City Council;
- (B) Attend all meetings of the Breese Economic Development Commission;
- (C) Execute the orders and/or directives from the Council and the Commission;
- (D) Carry out the purposes of the Economic Development Commission.

4-2-4 **RESERVED.** (Ord. No. 870)

4-2-5 **PURPOSE.** The purpose of the Commission shall be to assist the City in providing an appropriate enhancement and distribution of residential, commercial, service and industrial development of the City and of areas near the City.

4-2-6 **APPOINTMENT AND MEMBERSHIP.** The Commission shall be composed of **seven (7) members**, appointed by the Mayor, with the advice and consent of the City Council. The members of the Commission shall be residents of the City or shall reside within an area reasonably close to the City so as to have a direct interest in enhancing Breese's development, or have business interests in the City or in an area reasonably close thereto, provided that no member of the Commission may be an employee or elected official of the City, except that the Mayor, and Economic Development Director, and **one (1) member** of the Breese Chamber of Commerce shall be non-voting, ex-officio members of the Commission.

4-2-7 **TERM OF MEMBERS.** Each voting member of the Commission shall serve a **two (2) year term**, provided that members initially appointed shall be for the following terms: **Four (4) members** shall be appointed for a **two (2) year term**, and **three (3) members** appointed for a **one (1) year term**. Each successor to such initial appointee shall be appointed for a **two (2) year term** as above provided. Any voting member of the Commission shall be automatically removed from such office upon missing **four (4) consecutive regular meetings** of the Commission except for cause approved by the Chairman of the Commission. The vacancy thereby created shall be filled for the unexpired term by appointment of the Mayor with the advice and consent of the City Council.

4-2-8 **ELECTION OF CHAIRMAN.** The Commissioners shall elect one of their voting members as Chairman to preside at meetings of the Commission, and the Commission shall meet at least once each month on a day fixed annually for regular meetings. Such other meetings as may be desired or required by the Commission may be called by the Chairman or by any **two (2)** other Commission members by serving written notice by mail or personal service upon all other Commission members including ex-officio members, such notice to be received by the recipient no less than **twenty-four (24) hours** prior to the date and hour of the special meeting.

4-2-9 **QUORUM.** A majority of the members of the Commission shall constitute a quorum and no matter coming before the Commission shall be approved unless it receives a majority of affirmative votes of the Commission members present.

4-2-10 **FISCAL YEAR.** The fiscal year of the Commission shall coincide with the fiscal year of the City.

4-2-11 **OTHER OFFICERS.** The Commission may elect such other voting members as officers as they desire and as will serve their needs, and all such officers including the Chairman shall be entitled to vote upon all matters coming before the Commission.

4-2-12 **TERM OF OFFICERS.** The terms of office of the officers of the Commission shall be for **one (1) year**, and they shall be elected to serve at the first regular meeting in May of each year.

4-2-13 **POWERS OF OFFICERS.** The Commission shall determine the various powers and duties of its officers.

4-2-14 **COMPENSATION.** No member of the Commission shall receive any compensation for services on or to the Commission, and all public funds allocated or given to the Commission by the City shall be accounted for and expended only upon prior approval of the City Council to so do.

4-2-15 **FUNDS; ACCOUNTING OF SAME.** The Commission is authorized to receive funds from other sources and to expend them in accord with the rules and regulations of the authority supplying such funds. The Commission shall account to the City for all funds received at least annually at the close of the fiscal year, in accord with standard accounting principles.

4-2-16 **BY-LAWS.** The Commission is authorized to adopt By-Laws and Regulations for the conduct of its business not in conflict with this Article.

4-2-17 **REPORTS TO CITY COUNCIL.** The Commission shall provide to the City Council reports of the status of their finances, and of actions taken and results achieved.

CHAPTER 6

BUILDINGS

ARTICLE I - DANGEROUS BUILDINGS

6-1-1 **DEFINITIONS.** The term “**Dangerous Building**” as used in this Article is hereby to mean and include:

(A) Any building, shed, fence, or other man-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of its or neighboring structures;

(B) 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;

(C) Any building, shed, fence, or other man-made structure which, by reason of faulty construction or any other cause is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure;

(D) Any building, shed, fence, or other man-made structure which, because of its condition or because of lack of doors or windows is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

Any such dangerous building in the City is hereby declared to be a nuisance.

6-1-2 **PROHIBITION.** It shall be unlawful to maintain or permit the existence of any dangerous building in the City and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in a dangerous condition or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

6-1-3 **ABATEMENT.** Whenever the Mayor or his designated representative, or any other authorized officer of the City shall be of the opinion that any building or structure in the City is a dangerous building, he shall file a written statement to this effect with the City Clerk. The Clerk shall thereupon cause written notice to be served upon the owner thereof and upon the occupant thereof, if any, by certified mail or by personal service. Such notices shall state 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 at once. Such notice shall be served upon the proper parties not less than **fifteen (15) days** before the City shall file application with the County Circuit Court for an order authorizing the demolition or repair of said building. Such notice may be in the following terms:

"TO: _____: (OWNER/OCCUPANT of premises) of the premises known and described as _____

'You are hereby notified that _____ (describe building) on the premises above mentioned has been condemned as a nuisance and a dangerous building after inspection by _____

'The causes for this decision are _____
(here insert the facts as to the dangerous condition)

'You must remedy this condition or demolish the building immediately within **fifteen (15) days** from the date of this notice or the City will proceed to do so."

In the event that the building is not demolished or repaired or altered within the **fifteen (15) day** period of time elapsing from the date of the service of notice, then the City shall institute application before the County Circuit Court requesting an order authorizing the demolition, alteration, or repair of said building premises and the cost of such entailments shall be recovered from the owner or owners of such real estate and shall be a lien thereon.

6-1-4 **LIEN.** Charges for demolishing, repairing or altering of such building 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 expense 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 costs and expenses incurred or payable for the service.
- (C) The date or dates when said costs and expenses were incurred or payable for the service by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

6-1-5 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

6-1-6 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold for non-payment of the same, 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**.

ARTICLE II - BUILDING AS NUISANCE

6-2-1 BUILDING CONDITION - NUISANCE. The Mayor or his designated representative shall report to the City Council when any building in the City is in a dangerous condition and constitutes a nuisance.

6-2-2 TIME LIMIT. The owner of such building shall repair or alter it so as to make it safe within **ninety (90) days** from the time the notice is served upon him in the manner provided by law.

6-2-3 NOTIFICATION. The Mayor or his designated representative shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the Mayor. 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."

6-2-4 DANGEROUS AND UNSAFE BUILDINGS DEFINED. All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%)** or more of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City.

(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this City.

(J) Those buildings existing in violation of any provision of the Building Code of this City, or any provision of the Fire Prevention Code, or any other ordinances of the City.

(K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.

(L) Those buildings which are uncompleted or abandoned.

6-2-5 STANDARDS FOR REPAIR, VACATION OR DEMOLITION. The following standards shall be followed in substance by the Mayor or his authorized representative in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case where a "dangerous and unsafe building" is **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the City, or statute of the State of Illinois, it shall be demolished.

(See "Non-Conforming Uses" of the Zoning Code)

6-2-6 DANGEROUS AND UNSAFE BUILDINGS - NUISANCES. All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

6-2-7 **DUTIES OF THE ATTORNEY.** The City Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with and when requested to do so by the Mayor or his authorized representative.

6-2-8 **LIENS.** The cost of repair, demolition, vacation, or enclosure shall be recoverable from the owner or owners of such real estate and shall be a lien thereon, which lien shall be subordinate to all prior existing liens and encumbrances; provided that within **sixty (60) days** after said cost and expense is incurred, the City or person performing the service by authority of the City, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

- (A) A description of the real estate sufficient for identification therefor;
- (B) The amount of money representing the cost and expense incurred or payable for the service; and
- (C) The date or dates when said cost and expense was incurred by the City.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the City or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced within **three (3) years** after the date of filing notice of lien.

ARTICLE III - BUILDING OPERATIONS

6-3-1 **USE OF STREETS.** The use of streets for the storage of materials in the process of construction or alteration of a building may be granted where the same will not unduly interfere with traffic and will not reduce the usable width of the roadway to less than **eighteen (18) feet**; provided that no portion of the street other than that directly abutting on the premises on which work is being done shall be used except with the consent of the owner or occupant of the premises abutting on such portion. Any person seeking to make such use of the street shall file with the Village Clerk a bond with corporate sureties to be approved by the Village Board, to indemnify the Village for any loss or damage which may be incurred by it by reason of such use and occupation.

6-3-2 **NIGHT OPERATIONS.** No construction or alteration operations shall be carried on at nighttime if the same are accompanied by loud noises.

6-3-3 **SIDEWALKS.** No sidewalk shall be obstructed in the course of building, construction or alteration without a special permit from the Mayor or his authorized representative being first obtained.

6-3-4 **SAFEGUARDS.** It shall be the duty of the person doing any construction, altering or wrecking work in the Village to do the same with proper care for the safety of persons and property. Warnings, barricades and lights shall be maintained wherever necessary for the protection of pedestrians or traffic; and temporary roofs over sidewalks shall be constructed wherever there is a danger to pedestrians from falling articles or materials. **(See Chapter 33 - Streets for additional requirements)**

ARTICLE IV - RESERVED

ARTICLE V - BUILDING CODES

6-5-1 **PURPOSE.** The purpose of this Article is to provide for safety, health, and public welfare through structural strength and stability, means of egress, adequate light and ventilation, and protection to life and property from fire and hazards incident to the design, construction, repair, alteration, maintenance, removal, or demolition of buildings and structures, and to control the architectural design of buildings or structures erected or to be erected within the corporate limits of the City.

6-5-2 **SCOPE.** The provisions of this Article apply to the construction, site work alteration, equipment, addition, repair, replacement, removal, demolition, location, use, occupancy, and maintenance of all buildings and structures, and shall apply to existing or proposed buildings and structures; except as otherwise provided for in the City Zoning Code, or other ordinances or statutes.

6-5-3 **CODES ADOPTED.** The model codes hereinafter set forth are hereby adopted by reference and made a part of this City Code, as amended.

- (A) The International Building Code/2006
- (B) The International Mechanical Code/2006
- (C) The International Fuel Gas Code/2006
- (D) The International Fire Code/2006
- (E) National Electrical Code NFPA 70/2008
- (F) The International Energy Conservation Code/2012
- (G) The International Existing Building Code/2006
- (H) The International Residential Code/2006
- (I) The Illinois State Plumbing Code of 2004
- (J) The Illinois Accessibility Code of 1997

6-5-4 **AMENDMENTS TO BUILDING CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Building Code – 2006 Edition.

- (A) **Additions, Insertions and Changes.**
 - (1) Section 101.1 – Insert “City of Breese”.
 - (2) Section 106.1.4 – Insert the following: Plans on Job Required: A set of the approved plans is required to be on the job site at the time of inspection.
 - (3) Insert Subsection 106.2.1:
Section 106.2.1 – Compliance with Plot Plan. It shall be the responsibility of the builder/developer to submit to the Building Department a spot survey prepared by a Registered Land Surveyor after the foundation is installed. This survey must be at a scale of not less than **one inch equal to thirty feet (1" = 30')**. The survey must also indicate the elevation above sea level of the top of the foundation wall and the top of the curb and sidewalk at lot lines extended relative to a United States

Geological Survey benchmark. No construction will be allowed to proceed except for decking, underground water and sewer, and related items until the spot survey is approved by the Building and Zoning Department. This Section applies to principal structures only and not to additions or accessory structures.

- (4) Section 108.2 – Schedule of permit fees: Add the following: Building Permit fee schedule shall be determined by the City of Breese Fee Ordinance.
- (5) Section 112.3 – Delete the section in its entirety and replaced with the following: The City Council shall be the Board of Appeals.
- (6) Section 113.4 – Violation Penalties: Insert the following at the end of the section: The penalties shall be as determined by the City of Breese Fee Ordinance.
- (7) Section 501.2 – Premises identification: Add the following at the end of the section: The use of script address is not allowed.
- (8) Section 501.2.1 – Add the following: Tenant Identification. All buildings with multiple tenants or units shall have signs in the corridor across from the elevator door. This direction signage shall indicate the direction to each number tenant space. All tenant spaces shall have a sign, which indicates the tenant space number. The signs shall be constructed of durable materials, be permanently installed, and be readily visible. Letters and numbers shall contrast with the background and shall be a minimum of **two (2) inches** in height.
- (9) Section 706.10: Add the following new section: Tenant Separation: Each tenant shall be separated from other tenant spaces by fire barriers (walls and floor ceiling assemblies) having at least a **one (1) hour** fire rating.
- (10) Section 901.6 – Change to read as follows: All water flow switches, valve supervision, trouble signals, fire alarm systems shall transmit an alarm to a location approved by the fire official.
- (11) Add section 903.7 Sprinkler system design criteria. Sprinkler hydraulic designs for NFPA 13 and NFPA 13R systems shall be designed with a minimum of a **five (5) pound** difference between the sprinkler system design including hose requirements and the available water supply. The **five (5) pound** safety factor shall be applied to the water flow test after any adjustments for a seasonal low.
- (12) Section 1101.3 shall be added to read in its entirety: When there is a conflict between this Chapter and the Illinois Accessibility Code, the stricter of the two codes shall apply.
- (13) Section 1612.3 Insert the City of Breese.
- (14) Section 1612.3 Insert August 2, 2007.
- (15) Sections 1805.1.9 with regard to Footings and Foundations: All references to wood footings and foundations are deleted. The use of wood footings and foundations is prohibited.
- (16) Section 2701.1 Delete the reference to the ICC Electric Code and insert the National Electric Code 2008 edition.

- (17) Section 2901.1: Delete references to the International Plumbing Code and add the following: The Village Building Official shall require that the provisions of the current "Illinois Plumbing Code Law", 225 Illinois Compiled Statutes 320/1 et seq., as presently in force, or as the same may be hereafter amended or modified, and the same is hereby incorporated herein by reference and adopted as the standard for the purposes of this Ordinance. Any conflicts concerning the provisions of these codes shall be determined by the strictest standard contained in the code provisions.
- (18) Section 2902: Delete the section in its entirety.
- (19) Sections 3410.2: Insert 1980.
- (20) Reference Standards
Delete the reference to the ICC Electric Code
Delete the references to the International Plumbing Code in sections 101.4.4, 415.6.4, 717.5, 903.3.5, 1206.3.3, 2901.1, 2902.1, 3401.3 and insert the Illinois Plumbing Code.
Adopt the following appendix.
 - (a) Appendix A – Employee qualifications
 - (b) Appendix C – Group U Agricultural Buildings
 - (c) Appendix D – Fire Districts
 - (d) Appendix F – Rodent proofing
 - (e) Appendix G – Flood Resistant Construction
 - (f) Appendix H - Signs
 - (g) Appendix I – Patio Covers
 - (h) Appendix J - Grading

6-5-5 **AMENDMENTS TO MECHANICAL CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Mechanical Code – 2006 Edition.

(A)

Additions, Insertions and Changes.

- (1) Section 101.1 – Insert "City of Breese".
- (2) Section 106.5.2 Fee schedule: Add the following: Building Permit fee schedule shall be determined by the City of Breese Fee Ordinance.
- (3) Sections 106.5.3: Delete in its entirety.
- (4) Section 108.4: Delete the section and add the following: The penalties shall be as determined by the City of Breese Fee Ordinance.
- (5) Section 108.5: Stop Work Orders: Delete the last sentence and replace with the following: "Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine as established by the City of Breese Fee Ordinance."
- (6) Section 109.2: Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (7) Reference Standards
Delete the reference to the ICC Electric Code

Delete the references to the International Plumbing Code in sections 301.8, 908.5, 1002.1, 1002.2, 1002.3, 1005.2, 1006.6, 1008.2, 2009.3, 1101.4, 1201.1, 1206.2, 1206.3, 1401.2 and insert the Illinois Plumbing Code.

Adopt the Appendix A

- (a) Appendix A – Combustion Air Openings and Chimney Connector Pass-throughs

6-5-6 **AMENDMENTS TO FUEL GAS CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Fuel Gas Code – 2006 Edition.

(A) **Additions, Insertions and Changes.**

- (1) Section 101.1: Insert "City of Breese".
- (2) Section 106.5.2 Fee schedule: Add the following: Building Permit fee schedule shall be determined by the City of Breese Fee Ordinance.
- (3) Sections 106.5.3: Delete in its entirety.
- (4) Section 108.4: Delete the section and add the following: The penalties shall be as determined by the City of Breese Fee Ordinance.
- (5) Section 108.5 Stop Work Orders: Delete the last sentence and replace with the following: "Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine as established by the City of Breese Fee Ordinance.
- (6) Section 109.2: Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (7) Reference Standards
Delete the reference to the ICC Electric Code
Delete the references to the International Plumbing Code in sections 301.6, 624.2.1.1, 624.2 and insert the Illinois Plumbing Code.
Adopt the Appendix A – D.
 - (a) Appendix A – Sizing and Capacities of Gas Piping
 - (b) Appendix B – Sizing of Venting Systems Serving Appliances equipped with Draft Hood, Category I Appliances and Appliances Approved for Use with Type B Vents
 - (c) Appendix C – Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems
 - (d) Appendix D – Recommended Procedure for Safety Inspection of Existing Appliance Installations

6-5-7 **AMENDMENTS TO FIRE CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Fire Code – 2003 Edition.

(A)

Additions, Insertions and Changes.

- (1) Section 101.1: Insert "City of Breese".
- (2) Section 105 Permits: Delete the section in its entirety.
- (3) Section 108.3: Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (4) Section 109.3: Delete the section and add the following: The penalties shall be as determined by the City of Breese Fee Ordinance.
- (5) Section 111.4 Failure to Comply: Delete the section and replace with the following: "Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine as established by the City of Breese Fee Ordinance.
- (6) Section 505.1 Address numbers: delete in the sixth line: "or alphabet letters".
- (7) Add section 903.7 "Sprinkler system design criteria": Sprinkler hydraulic designs for NFPA 13 and NFPA 13R systems shall be designed with a minimum of a **five (5) pound** difference between the sprinkler system design, including hose requirements, and the available water supply. The **five (5) pound** safety factor shall be applied to the water flow test after any adjustments for a seasonal low.
- (8) Section 3204.3.1.1 should be replaced with: "Fire Department should determine the requirement."
- (9) Section 3404.2.9.5.1: Fire Department should determine the requirements.
- (10) Section 3406.2.4.4: Fire Department should determine the requirement.
- (11) Section 3804.2: Fire Department should determine the requirement.
- (12) Reference Standards
Delete the reference to the ICC Electric Code
Delete the references to the International Plumbing Code in sections 903.3.5, 912.5, 2211.2.3, 2704.2.2.6 and insert the Illinois Plumbing Code.
Adopt the Appendix D Fire Apparatus Access Roads.

6-5-8 **AMENDMENTS TO ELECTRICAL CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the National Electrical Code – 2008 Edition – N.F.P.A. No. 70.

(A)

Additions, Insertions and Changes.

- (1) Article 310.2(B): Delete "aluminum, copper-clad aluminum, or".
- (2) Article 314-3: shall be deleted and the use thereof prohibited.
- (3) Article 394: "concealed knob-and-tube wiring" shall be deleted and such use prohibited.

6-5-9 **AMENDMENTS TO ENERGY CONSERVATION CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted edition of the International Energy Conservation Code – 2012 Edition.

(A) **Additions, Insertions and Changes.**

- (1) Section C101.1 Insert "City of Breese".
- (2) Referenced Standards
Delete the reference to the ICC Electric Code.

6-5-10 **AMENDMENTS TO THE INTERNATIONAL EXISTING BUILDING CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the International Existing Building Code – 2006 Edition.

(A) **Additions, Insertions and Changes.**

- (1) Section 101.1: Insert "City of Breese".
- (2) Section 112.3: Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (3) Section 1301.2: Insert 1980.
- (4) Referenced Standards
Delete the reference to the ICC Electric Code.
Delete the references to the International Plumbing Code in sections 101.2, 410.2, 503.2, 610.1, 810.1, 810.2, 810.3, 810.5.
- (5) Add the following appendix.
Appendix A – Guidelines for Seismic Retrofit of Existing Buildings.
Appendix A-1 Seismic Strengthening Provisions for unreinforced masonry bearing wall construction.
Chapter A-2 Earthquake hazard reduction in existing reinforced concrete and reinforced masonry wall buildings with flexible diaphragms.
Chapter A-2 Exit Terminals of Mechanical Draft and Direct-Vent Systems.
Chapter A-3 Prescriptive provisions for seismic strengthening of cripple walls and sill plate anchorage of light, wood-frame residential buildings.
Chapter A-4 Earthquake hazard reduction in existing wood frame residential buildings with soft, weak or open front walls.
Chapter A-5 Earthquake hazard reduction in existing concrete buildings and concrete with masonry in fill buildings Procedures for Safety Inspections of an Existing Appliance Installation.
Appendix B Supplementary accessibility requirements for existing buildings and facilities.
Resource A Guidelines on fire ratings of archaic materials and assemblies.

6-5-11 **AMENDMENTS TO RESIDENTIAL CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the International Residential Code – 2006 Edition.

(A)

Additions, Insertions and Changes.

- (1) Section R101.1: Insert "City of Breese".
- (2) Section R112.3: Delete the section in its entirety and insert the following: The City Council shall be the Board of Appeals.
- (3) Table: 301.2(1) the following information shall be inserted in the Table

Ground Snow Load		20
Wind Speed	3 second 90 normal	75
Seismic Condition		D-1
Subject to Damage from		
Weathering		SEVERE
Frost Line Depth		30 inches
Termite		MODERATE to HEAVY
Decay		SLIGHT to MODERATE
Winter Design Temperature		6 degrees
Ice Shield Underlayment		Yes
Flood Hazard	See local flood ordinance	
Air Freezing Index		1000
Mean Annual Temp		55 degrees
- (4) Section R309.2 Separation Required: Delete words "one-half (1/2) inch gypsum board" and add "five-eighths (5/8) inch gypsum board".
- (5) Sections R403 Footings, including R403.2: All references to wood footings and foundations are deleted. The use of wood footings and foundations is prohibited.
- (6) Delete Chapters 25, 26, 27, 28, 29, 30, 31, and 32. Refer to State of Illinois Department of Public Health Plumbing Code of 1998.
- (7) Reference Standards
Delete the reference to the ICC Electric Code.
Delete the references to the International Plumbing Code in sections 104.11.
- (8) Adopt the following appendices.
Appendix A Sizing and Capacities of Gas Piping
Appendix B Sizing of Venting Systems
Appendix C Exit Terminals of Mechanical Draft and Direct-Vent Systems
Appendix F Radon Control Methods
Appendix G Swimming Pools, Spas and Hot Tubs

6-5-12 **AMENDMENTS TO THE ILLINOIS PLUMBING CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the International Plumbing Code – 2004 Edition.

(A)

Additions, Insertions and Changes.

- (1) There are no changes to the Illinois Plumbing Code.

6-5-13 **AMENDMENTS TO THE ILLINOIS ACCESSIBILITY CODE.** The following provisions shall further apply and shall supersede any and all references listed within the adopted Edition of the International Accessibility Code – 1997 Edition.

(A) **Additions, Insertions and Changes.**

(1) There are no changes to the Illinois Accessibility Code.

6-5-14 **LIMITATIONS ON CONSTRUCTION HOURS.**

(A) **General Construction and Carpentry.** There shall be no outdoor construction or carpentry activities generating noise at any time other than the following:

Monday through Friday	-	7:00 A.M. to 7:00 P.M.
Saturday	-	8:00 A.M. to 5:00 P.M.
Sunday and National Holidays	-	8:00 A.M. to 4:00 P.M.

Construction activity for emergencies may be allowed during the restricted time periods only upon issuance of a permit by the Building Commissioner.

(B) **Operation of Heavy Construction Equipment, Trucks of Class D and Above Registration, Excavation and Demolition.** There shall be no operation of heavy construction equipment, or excavation, or demolition activities involving the use of excavating or earth-moving equipment including loaders, back-hoes, jack hammers, or similar equipment on Sunday or National holidays or at any time other than the following:

Monday through Friday	-	7:00 A.M. to 5:00 P.M.
Saturday	-	8:00 A.M. to 5:00 P.M.

Construction activity for emergencies may be allowed during the restricted time periods only upon issuance of a permit by the Building Commissioner. **(Ord. No. 1996-O-41, 09-17-96)**

(Ord. No. 1271; 01-15-13)

ARTICLE VI - BUILDING PERMIT FEES

6-6-1 **TITLE.** This Article shall be more commonly referred to as the "City of Breese Construction and Building Permit Fee Ordinance".

6-6-2 **BUILDING ELECTRICAL AND PLUMBING PERMIT FEES.** Except as provided herein, the Building, Electrical, and Plumbing Permit Fee Schedule shall be as stated in Exhibit "A" of this Article. Reference to "Group" and "Type of Construction" on said exhibit shall correspond with the definition and description of those terms as found in Sections 302-312 of the International Building Code - 2006 Edition, adopted by the City in Ordinance No. 1271. The building, plumbing, and electrical permit fees shall be established according to the International Code Council (ICC) table for Square Foot Construction Costs (as periodically updated).

The multipliers for each permit shall be as follows:

Building Permit	0.0015
Electrical Permit	0.0005
Plumbing Permit	0.0005

The formula for permit fee shall be as follows:

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

Underground plumbing inspection fee - \$30.00

The minimum fee for a Building Permit shall be no less than **Fifty Dollars (\$50.00)** for all structures where a new foundation is required. The minimum Electrical and Plumbing Permit Fee shall be **Sixty Dollars (\$60.00)**.

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

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

6-6-3 **OCCUPANCY PERMIT.** There shall be a **Two Hundred Dollar (\$200.00)** Occupancy Permit Fee payable at the time of the issuance of a Building, Electrical, or Plumbing Permit. The fee shall be refunded at the time an Occupancy Permit is issued less any re-inspection fees due and owing.

6-6-4 **FINES AND PENALTIES.** Certain fines and penalties shall be assessed against contractors, sub-contractors, and/or property owners for violations of certain provisions of the Ordinance Related to Building Codes and Fire Regulations No. 1271. Said fines and penalties are more particularly set forth on attached Exhibit "B", attached hereto and incorporated herein by reference.

6-6-5 **AMENDMENTS.** The fees and fines as set forth herein shall be reviewed and amended by Ordinance passed by the City Council on a biannual or annual basis upon the recommendation of the Department of Public Works.

(Ord. No. 1272; 01-15-13)

EXHIBIT "A"

**CITY OF BREESE
INTERNATIONAL CODE COUNCIL
BUILDING VALUATION DATA AUGUST 2012**

Group (2012 International Building Code)		Type of Construction								
		IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1	Assembly; theaters, with stage	214.15	206.92	201.66	193.17	181.41	176.32	186.72	165.85	159.28
	Theaters without stage	196.04	188.81	183.56	175.06	163.31	158.22	168.62	147.76	141.18
A-2	Assembly; nightclubs	168.81	164.02	159.44	153.03	143.74	139.85	147.38	130.27	126.58
A-2	Assembly; restaurants, bars, Banquet halls	167.81	163.02	157.44	152.03	141.74	138.85	146.38	128.27	125.58
A-3	Assembly; churches	197.95	190.72	185.47	176.97	165.36	160.27	170.53	149.81	143.23
A-3	Assembly; general, community halls Libraries, museums	165.62	158.39	152.13	144.64	132.00	127.91	138.19	116.44	110.87
A-4	Assembly; arenas	195.04	187.81	181.56	174.06	161.31	157.22	167.62	145.76	140.18
B	Business	172.54	166.23	160.58	152.72	138.52	133.37	146.42	121.73	115.93
E	Educational	181.70	175.44	170.22	162.46	151.32	143.23	156.78	131.65	127.18
F1	Factory and industrial, moderate hazard	103.30	98.45	92.55	88.98	79.28	75.88	85.02	65.42	61.37
F2	Factory and industrial, low hazard	102.30	97.45	92.55	87.98	79.28	74.88	84.02	65.42	60.37
H1	High hazard, explosives	96.79	91.94	87.04	82.47	73.97	69.57	78.51	60.11	NP
H2,3,4	High hazard	96.79	91.94	87.04	82.47	73.97	69.57	78.51	60.11	55.06
H-5	HPM	172.54	166.23	160.58	152.72	138.52	133.37	146.42	121.73	115.93
I-1	Institutional; supervised environment	171.33	165.32	160.70	153.74	141.19	137.46	149.84	126.68	122.17
I-2	Institutional; hospitals	292.97	286.66	281.01	273.15	257.93	NP	266.85	241.14	NP
I-2	Institutional; nursing homes	202.53	196.12	190.57	182.71	168.50	NP	176.41	151.70	NP
I-3	Institutional; restrained	196.53	190.21	184.57	176.71	164.01	157.86	170.41	147.22	139.42
I-4	Institutional; day care facilities	171.33	165.32	160.70	153.74	141.19	137.46	149.84	126.68	122.17
M	Mercantile	125.80	121.01	115.43	110.02	100.45	97.56	104.37	86.98	84.29
R-1	Residential; hotels	172.82	166.81	162.19	155.22	142.85	139.11	151.49	128.33	123.82
R-2	Residential; multiple family	144.89	138.87	134.26	127.29	115.60	111.87	124.24	101.08	96.58
R-3	Residential; one- and two-family	136.37	132.66	129.29	126.07	121.04	118.03	122.07	113.10	105.93
R-4	Residential; care/assisted living facilities	171.33	165.32	160.70	153.74	141.19	137.46	149.84	126.68	122.17
S-1	Storage; moderate hazard	95.79	90.94	85.04	81.47	71.97	68.57	77.51	58.11	54.06
S-2	Storage; low hazard	94.79	89.94	85.04	80.47	71.97	67.57	76.51	58.11	53.06
U	Utility, miscellaneous	71.79	67.80	63.46	59.92	53.77	50.29	57.04	42.06	39.83

EXHIBIT "B"

**CITY OF BREESE
BUILDING PERMIT FINE SCHEDULE**

- (A) These fees are applicable to the general contractor, sub-contractor and the owner/property owner. In addition to a ticket being issued, a stop work order will be issued to remain in effect until the ticket has been paid and the violation has been corrected.

<u>Offense</u>	<u>Fine*</u>
1. Working without a permit when one is required.	\$100.00
2. Proceeding without an inspection. (Must pass inspection prior to being covered up.)	\$100.00
3. Scheduling an inspection and not being prepared when the inspectors arrive.*** Fee shall double each time an inspector must return to the site for the same inspection. (e.g. First time on site and not prepared - no charge, second time - \$25.00, third time - \$50.00, fourth time - \$100.00...)	\$25.00**
4. Mud on pavement bears a written warning for the first offense. The General Contractor is advised in the warning to remove mud from pavement within two (2) hours (General Contractor is responsible for notifying Sub-contractors.) Notice also states that this will be the only warning throughout the entire project. If the City observes or receives another complaint, a stop work order shall be issued along with a ticket. First time offense - written warning, second offense - \$50.00, third offense - \$100.00, fourth offense - \$150.00 and so forth.	\$50.00
5. Failure to call for a final inspection.	\$100.00
6. Occupying the structure before issuance of Certificate of Occupancy.	\$100.00
7. A Certificate of Occupancy fee of \$200 is paid when the Building Permit is issued, to be used as a bond. This bond is reimbursed 100% upon completion of construction and a permanent Certificate of Occupancy is issued at time of Final Inspection. If issued a temporary Certificate of Occupancy and work is not completed in the time allotted on the temporary occupancy permit, then \$100 of the bond is forfeited as a fine. Failure to obtain the permanent Certificate of Occupancy within 120 days of issuance of temporary occupancy permit shall forfeit the remaining \$100 as a fine.	\$200.00****

- * If offender(s) refuses the ticket or refuses to pay the fine, the Stop Work Order shall remain in effect and the fine shall continue to accrue each day the violation exists.
 - ** Does not apply to re-inspections of corrected work.
 - *** Applies to all inspections.
 - **** Bond is refundable if all provisions are met.
- (B) Notification is made to the permit holder of the applicable penalties when permit application is submitted. They must read the information sheets provided and sign to verify that they have read and understand them. A copy will be returned to them and the homeowner if applicable.
- (C) For working without a permit, both the General Contractor and the Homeowner will receive a ticket. For covering up work without an inspection, or for scheduling an inspection without being prepared, both the General Contractor and the sub-contractor shall receive a fine. Failure to call for a Final Inspection and occupying the structure without a Certificate of Occupancy, both the owner and General Contractor shall be issued fines.

(Date)

(Date)

CHAPTER 7

BUSINESS

ARTICLE I – SOLICITORS

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

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

7-1-3 **APPLICATION FOR CERTIFICATE OF REGISTRATION.** 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.

7-1-4 **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.

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

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

(A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given 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 and 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.

7-1-7 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 in **Section 7-1-6** 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.

7-1-8 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 7-1-6**.

7-1-9 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.

7-1-10 SOLICITATIONS ON PUBLIC HIGHWAYS. Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

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

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

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

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

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

7-1-11 **FEES.** Upon making an application for a Certificate, the applicant shall pay a license fee, which shall be as follows:

- (A) **Daily License:** **\$25.00 Per Person, Up to Four
(4) Persons; \$50.00
\$50.00 for a Group.**
- (B) **Annual License:** **\$200.00 Per Person Per Year.**

(See 65 ILCS Sec. 5/11-5-2)

ARTICLE II - PEDDLERS

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

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

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

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

7-2-4 **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.

7-2-5 **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.

7-2-6 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.

7-2-7 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 employees in a clear and distinguishing manner.

7-2-8 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.

7-2-9 PEDDLERS AS NUISANCE. The practice of going in and upon private residences, business establishments or offices in the municipality by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purposes of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

7-2-10 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 7-2-9**.

7-2-11 EXCLUSIONARY PROVISION. The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the municipality or anyone duly licensed.

7-3-2 **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.

7-3-3 **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.

7-3-4 **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.

7-3-5 **FEES.** The annual fee for such license shall be **Ten Dollars (\$10.00) 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.

7-3-6 **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.

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

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

(B) 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.

7-3-8 **DISPLAY OF LICENSE.** Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

7-3-9 **RIGHT OF ENTRY.** The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

ARTICLE IV - JUNK DEALERS

7-4-1 DEFINITIONS.

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

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

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

(Also, see Chapter 24, Article IV and Chapter 25.)

7-4-2 PHYSICAL REQUIREMENTS. The minimum physical requirements at all times for each junk yard shall be as follows:

(A) The premises where the junk yard is located shall not have more than **two (2) entrances** thereto and **two (2) exits** therefrom, each of which shall not exceed **fifteen (15) feet** in width at the perimeter of the premises.

(B) The premises where the junk yard is located shall be enclosed on its perimeter with a solid, non-transparent, vertical wall or fence of a minimum height of **seven (7) feet** measured from ground level, excepting for the entrances and exits permitted by paragraph (A) above.

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

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

(E) The premises where the junk yard is located meets all of the restrictions of the Zoning Code.

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

7-4-4 **APPLICATION.** Before any license under the provisions of this Section is issued, any person desiring to operate a junk yard in this City shall first make a verified application in writing to the Clerk in the absence of provision to the contrary, stating thereon the full name of the applicant, his residence address, the trade name of the applicant, the legal description of the premises where the junk yard is to be located, the size and approximate location of each entrance thereto and exit therefrom, whether or not the premises where the junk yard is to be located is enclosed on its perimeter with a solid, nontransparent wall or fence of a minimum height of **seven (7) feet**, measured from ground level, excepting the entrances and exits, and whether or not the public streets and alleys adjacent to the premises where the junk yard is to be located have junk thereon. If the applicant is a firm or partnership, the names and residence addresses of all the partners and in the case of a corporation, the names and residence addresses of the president and secretary shall be stated in the application.

7-4-5 **DISQUALIFICATION.** Any applicant for a license to keep, maintain, conduct or operate a junk yard shall be disqualified for any of the following reasons:

- (A) Not a person of good character.
- (B) Falsification of an application for a license hereunder.
- (C) License for a junk yard theretofore issued to the applicant has been revoked during the preceding **twenty-four (24) months**.
- (D) Failure to meet any one of the minimum physical requirements for a junk yard as specified in **Section 7-4-2** hereof.

7-4-6 **LICENSE.** Any and all licenses issued hereunder shall state that such license is issued in the name of the junk dealer solely for the purpose of keeping, maintaining, conducting and operating a junk yard, the expiration date thereof, the legal description of the premises where the junk yard is to be located, that the license shall be used and the privileges thereof exercised only at the described premises, and that such license is nonassignable and non-transferable.

Such license shall further provide that it is issued subject to all the provisions of this Chapter; that upon the first conviction for a violation of any of the provisions of this Chapter, in addition to the fine, such junk yard shall remain closed for a period of **thirty (30) days**; that upon the second conviction for a violation of any of the provisions of this Chapter, such license shall become null and void, and the licensee shall forfeit all sums paid for such license, and that the licensee, by the acceptance of such license expressly agrees to all the terms and conditions thereof, and to the terms and provisions of this Section and all amendments thereto.

7-4-7 **LICENSE FEE.** The annual license fee for each junk yard shall be **One Thousand Dollars (\$1,000.00)** payable in advance with the filing of the application for license, and shall not be subject to prorata reduction for a portion of the year, either because of the application for or because of revocation of a license; provided, however, that only **one (1) annual license fee** shall be payable for licenses which may be issued whenever the applicant desires to keep, maintain, conduct or operate junk yards on lots, blocks, tracts, or parcels of land which are situated on directly opposite sides of and abut upon each side of a public street or alley. Where such place of business is not located in the City, but the operator carries on the business of buying or collecting or bartering for the items heretofore enumerated within the City, the annual fee shall be **One Thousand Dollars (\$1,000.00)** for each junk dealer. The fee payable as provided in this Code.

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

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.

ARTICLE VI - OIL WELLS

7-6-1 **UNLAWFUL ACTIVITY.** It shall be unlawful and an offense for any person, firm or corporation, or any individual, either for himself or acting as an agent, employee or servant of any other person, firm or corporation, to engage in any work or to erect any structures, tanks, machinery, pipe lines or other appurtenances, incident to the drilling for or production of petroleum or natural gas or to operate, maintain or permit to exist any equipment, structures or appurtenances incident to such production or to use or maintain any property or premises in violation of the terms of this Chapter.

7-6-2 **PERMIT REQUIRED.** It shall be unlawful and an offense for any person, firm or corporation to drill or put down any petroleum or gas well within the corporate limits of the City without first having secured a permit to do so as hereinafter provided.

7-6-3 **WELL DRILLING.** It shall be unlawful to drill more than **one (1) well** on any **one (1) block**. The term "block" within the meaning of this Chapter shall mean a tract of land, either platted or unplatted or a park or public grounds which is bounded by public streets, avenues, railroads, rights-of-way, sections, **half (1/2)** sections, or **one-fourth (1/4)** section lines and all measurements shall extend the middle of the streets and avenues.

7-6-4 **APPLICATION.** Before any permit for the drilling or putting down of any petroleum or gas well is issued, a written application therefor, signed by the applicant or some person in his or its behalf, duly authorized, shall be filed with the City Clerk. The application shall state the block and exact lot and location thereon, where the proposed well will be drilled and there shall be attached thereto either certified or photostatic copies of all leases or contracts with the owners of the property in such block or blocks, which are controlled or owned by the applicant, and in addition thereto, a statement showing the number of lots in the block or tract, which applicant holds under lease or contract from the owners. In addition thereto, there shall be attached to the application, a map or plat showing all correct dimensions and exact location of the proposed well or wells, together with tanks, pits, pipe lines, embankments, fences and other details of the proposed use of such property necessary or incident to drilling of the well, together with correct measurements of the location from outside boundaries of the block.

The application, with the certificate aforesaid attached thereto shall be duly verified before an official authorized to administer oaths in the State of Illinois. If the application, together with exhibits attached thereto shows that the applicant is owner of or has under contract or lease all of the property within the block or tract, the City Clerk shall grant a permit therefor, provided that the application shows that the applicant has complied with all requirements of the City in relation to drilling. In the event it appears from the application that the applicant does not have the entire block or tract, and has more than **fifty-one percent (51%)** thereof, the application shall be referred by the Clerk to the City Council. The Council shall fix the time and place of a public hearing thereon and enter the same of record and the applicant shall cause **five (5) days'** notice thereof to be given by posting notice of the time, place and purpose of the application and hearing, in **five (5)** of the most public places of the City, **two (2)** of which said notices shall be posted within the block or tract, and by publication in a newspaper of general circulation, published in the City. The Council shall conduct the hearing upon the application for permit at such time and place. At such hearing, all persons interested may be heard. Upon such hearing, all witnesses shall be examined under oath and applicant shall cause a transcript of the evidence to be taken at his expense and filed with the Clerk of the City for public use. No application shall be filed or permit issued for the drilling or putting down of any petroleum or gas well within the fire limits of the City.

All leases in the block or tract shall be consolidated by requiring that the holder of any lease or leases less than **fifty-one percent (51%)** shall pay his proportionate part of expense of drilling, permit, bond and actual cost of drilling such well, or by making good and sufficient bond to do so and thereupon, he shall be permitted to participate in the **seven-eighths (7/8)** working interest to the extent that his lease shall bear to the entire block or tract.

In the event there is any unleased part of the block or tract, the owner of the fee title shall have the same right as if he were the owner of the lease. This is applicable only to the **seven-eighths (7/8)** working interest. The **one-eighth (1/8)** royalty interest shall be and remain in the owner of the fee title independent of any requirements of this Chapter. The owners of unleased property and the owners of leases, so consolidated, who do not elect to participate in the **seven-eighths (7/8)** working interest shall be paid by the operators of the consolidated lease, the reasonable value of such leases or owner's lease to be ascertained and fixed by the City Council.

7-6-5 **CONTRACTORS.** Before work shall commence under any permit, the holder thereof shall file with the City Clerk, a written statement of all contractors and sub-contractors connected with the work erecting the rig or drilling of the well, and shall promptly notify the City Clerk of any change or contractors or sub-contractors.

7-6-6 **EXCAVATIONS.** It shall be unlawful, and an offense for any person, firm or corporation, either as principal or agent, to make any excavation in any part of the streets, alleys, highways, parking sidewalk area, or other public property for the purpose of laying or installing or to lay or install any pipe lines in or upon any such property without first having obtained a permit from the City Council to do so. The applicant for such permit shall file with the City Clerk a plan showing in detail the exact location of such proposed excavation of pipe lines, the depth thereof, and the location with particular reference to all structures or lines of the City or any public utility company, and the sidewalk, pavement or other improvements, and shall pay as a fee therefor, the sum of **Twenty-Five Cents (\$0.25)** per lineal rod for each rod of excavation with a minimum of **Five Dollars Ten Cents (\$5.10)** per rod annually.

7-6-7 **BOND - LIABILITY.** No permit for the drilling or putting down of any such well shall be issued until the applicant shall have filed with the City Clerk, a good and sufficient bond executed by a Bond or Indemnity Company authorized to do business in the State of Illinois, running in the name of the People of the State of Illinois, for the use of any person interested and conditioned, the applicant shall pay and discharge any liability imposed by law or damages on account of injury to property, either private or public, or bodily injury, including death, received or suffered by any person or persons, firm or corporation and resulting from drilling, operation or maintenance of such well or on structure machinery, equipment or tanks, connected therewith, and that he shall abide by and comply with all the provisions of this Chapter. The Bond shall be approved by Council and shall be in the sum of **Fifty Thousand Dollars (\$50,000.00)**, shall be for **one (1) year** and at the expiration thereof, a new bond shall be furnished with the same terms and conditions. Any permit shall expire with the expiration of the bond covering the same.

7-6-8 **PERMIT FEE.** No permit shall be granted for putting down of any well until applicant shall have paid the City by paying to the Clerk the sum of **Ten Thousand Dollars (\$10,000.00)** which shall be the fee for each permit granted. When any permit expires by failure to renew bond, or if well ceases to produce, the holder of the permit shall remove all property from lease and restore the surface to normal within **ninety (90) days** of the expiration of the permit or date of non-production of well.

7-6-9 **BOUNDARY.** In case a producing well is drilled without the City, but within **six hundred sixty (660) feet** or less of the corporate limits of the City, permits shall be granted to drill all necessary off-set wells within the City. No alley or street of less than **twenty-five (25) feet** in width shall be considered as a boundary line of any block or tract.

7-6-10 **REGULATIONS ENFORCED.** In the drilling or putting down of any such well or wells, within the corporate limits of the City all ordinances and laws of the City in respect thereto shall be followed and complied with and for the purpose of enforcing the provisions of this Chapter, and for prevention of fires and other dangerous hazards, full authority is hereby vested in the Mayor, Council and Police Department of the City.

ARTICLE VII – FIREWORKS CODE

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

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

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

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

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

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

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

- (A) Fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and
- (B) Fireworks not classified as common fireworks.

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

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

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

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

Dipped stick, sparklers and smoke devices.

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

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

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

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

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

7-7-9 **APPLICATION FOR SELLER’S PERMIT—CONDITIONS FOR ISSUANCE.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) A drawing shall be submitted to the Fire Chief showing a plan view of the fireworks discharge site and the surrounding area within a **five hundred (500) foot** radius. The drawing shall include all structures, fences, barricades, street fields, streams and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

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

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

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

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

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

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

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

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

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

- (1) The sensitivity of the area's environment, wildlife and wildlife habitat;
- (2) The inconvenience and nuisance to abutting property owners;
- (3) The safety and suitability of the area as a place for the discharge of fireworks; and

(4) Danger of fire or other destruction of public property and improvements from the use of the fireworks.

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

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

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

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

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

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

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

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

EXHIBIT "A"

APPLICATION FOR AN OUTDOOR PYROTECHNIC DISPLAY PERMIT

PART A – DISPLAY SPONSOR INFORMATION

Display Sponsor's Name	Telephone Number
Address	Cell Phone

PART B – PYROTECHNIC DISTRIBUTOR INFORMATION

Pyrotechnic Distributor's Name		OSFM License
Address		Telephone Number
Location Where Fireworks Stored		Storage Dates
Lead Pyrotechnic Operator's Name		OSFM License
Assistant's Names	Date of Birth	License No. (if any)
Liability Insurance: (not less than \$1,000,000.00)		
Name and Address of Insurer		Telephone Number
Policy Number		Coverage Dates
Type of Coverage		
List Type, Size and Approximate Number of Fireworks to be Displayed: (if you need more space, please attach a separate sheet of paper.)		

PART C – DISPLAY INFORMATION

Display Location	
Property Owner's Name	Telephone Number
Owner's Address (if different than Display Location)	
Date of Display	Time of Display
Alternative Date	Time of Alternative Display
By signing below, the Owner of the property on which the Outdoor Pyrotechnic Display will take place, hereby authorizes the Display Sponsor and the Pyrotechnic Distributor to perform the Outdoor Pyrotechnic Display on said property.	
Signature:	

PART D – SITE INSPECTION INFORMATION

Answer the following questions	Yes	No
Is distance to any fire hydrant or water supply greater than 600'?		
Is display area clear from overhead obstructions?		
Have provisions been made to keep the public out of display area?		
Is a hospital, nursing home, or other institution within 600' of the display site?		
Have provisions been made for on-site fire protection during the display?		
Has a diagram of the display site been attached to this application?		
Identify the largest mortar size (in inches) you intend to use.		
Identify the minimum secured diameter of the display site (in feet) based on the largest mortar size.		

**PART E – FIRE DEPARTMENT AUTHORIZATION
(Completed by Fire Department)**

Department Name	Telephone Number	
Department Address		
Based on review of the Display Site, the provided Diagram, And this application:	Yes	No
Have you verified the answers the applicant has given to Part D of This application?		
Will the performance of the described Outdoor Pyrotechnic Display at the planned display site be hazardous to property or endanger any person?		
By signing below, the Fire Chief of the above-identified fire jurisdiction, or his or her designee, hereby acknowledges that he or she inspected the Display Site:		
Signature:		
Print Name:	Date	

EXHIBIT "B"

OUTDOOR PROFESSIONAL DISPLAY SITE CHECKLIST

PART A – DISPLAY INFORMATION

Name of Company: _____ License No. _____

Name of Lead Operator: _____ License No. _____

Location of Display: _____

Venue Contact: (Name, Address and Telephone Number)

Date of Display: _____ Alternative Display Date: _____

<u>Assistants Names</u>	<u>Date of Birth</u>	<u>License No. (If Any)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

PART B – DISPLAY SITE SELECTION/MINIMUM DISTANCES

- Did the operator provide you a copy of the Display Site plan? The display site plan must include the dimensions and locations of the discharge site, the fallout area, and identify the spectator viewing area and parking areas which must be located outside of the display site. The associated separation distances must also be shown.
- Identify the largest mortar size in inches: ()
- The minimum display site size required to conduct the display is based on the size of the largest mortar. To determine the minimum area for the display site, go to Table 1 and read the number next to size of the largest mortar identified above:

Table 1

Mortar Size (in inches)	Minimum Secured Diameter of the Site (in feet)
<3	280
3	420
4	560
5	700
6	840
7	980
8	1120
10	1400
12	1680

Where unusual or safety-threatening conditions exist, the authority having jurisdiction shall be permitted to increase the required separation distances as it deems necessary.

- Spectators and spectator parking areas must be located outside of the display site.

- Dwellings, buildings, and structures are not permitted to be located within the display site without the approval of the authority having jurisdiction and the owner and the dwelling, building, or structure is unoccupied during the display. The building may remain occupied if the structure provides protection through substantial noncombustible or fire-resistant construction for the occupants.
- Fire protection personnel and their vehicles and other emergency response personnel and vehicles shall remain at or beyond the perimeter of the display site during the actual firing of the display.
- Review sample Display Site Plan at end of this document.

PART C – LOCATION OF DISPLAY

- Mortars shall be placed at the approximate center of the display site.
- There shall not be any overhead object over the mortars or within 25 ft of the trajectory of any aerial shells.
- Ground display pieces shall be located a minimum distance of 75 ft from spectator viewing areas and parking areas.
 - Exception: For ground pieces with greater hazard potential (such as large wheels with powerful drivers, and items employing large salutes) or all roman candles and multishot devices, the minimum separation distance shall be increased to 125 ft (38 m).

PART D - MORTARS

- Mortars shall be positioned and spaced so that shells are propelled away from spectators, over the fallout area, and to afford maximum protection to the shooter and loader. Under no circumstances shall mortars be angled toward the spectator viewing area.
- Mortar racks or bundles shall be constructed in a thorough and workmanlike manner to be capable of holding multiple mortars in position during normal functioning. Mortar racks or bundles that are not inherently stable shall be secured or braced to stabilize them. Stabilization shall be accomplished by using stakes, legs, A-frames, side-boards, or equivalent means.

PART E – GROUND DISPLAY

- To the extent that it is practical, all ground display pieces shall be positioned outside the discharge area of aerial displays.
 - Exception: Where aerial shells have been preloaded, ground display pieces shall be permitted to be located in that discharge area.
- Dry grass or combustible materials located beneath ground display pieces shall be wet down before the display if they are in sufficient quantity to be a fire hazard.
- Poles for ground display pieces shall be securely placed and firmly braced so that they do not fall over during functioning of the fireworks device.

PART F – DISPLAY SITE SAFETY

- The authority having jurisdiction and the operator shall meet and determine the level of fire protection required.
- During the period before the display, where pyrotechnic materials are present, unescorted public access to the site shall not be permitted.
- Are there enough monitors positioned around the discharge site to prevent spectators or any other unauthorized persons from entering the discharge site? The discharge site must be restricted throughout the display and until the discharge site has been inspected after the display. The authority having jurisdiction may approve delineators or barriers to be used in crowd control.

- Does the display have at least two spotters, or preferably more, assigned to watch the flight and behavior of aerial shells and other aerial fireworks to verify that they are functioning as intended. If any unsafe condition is detected, such as hazardous debris falling into the audience, the spotter shall signal the shooter to cease firing until the unsafe condition is corrected. The spotters shall be in direct communication with the shooter during the conduct of the display, with an effective means of informing the shooter of any hazardous condition.

PART G – DISCHARGE AREA SAFETY

- During the firing of the display, all personnel in the discharge site shall wear head protection, eye protection, hearing protection, and foot protection and shall wear cotton, wool, or similarly flame-resistant, long-sleeved, long-legged clothing. Personal protective equipment, as necessary, shall be worn by the operator and assistants during the setup and cleanup of the display.
- No person shall ever place any body part over the mortar during the loading and firing of a display until mortars have been checked for the absence of any shells following the display.
- Smoking materials, matches, lighters or open flame devices shall not be allowed within 50 ft (15 m) of any area where fireworks or other pyrotechnic materials are present.
 - Exception: Devices such as fuses, portfires, and torches shall be permitted to be used to ignite fireworks.
- No person shall be allowed in the discharge area while under the influence of alcohol, narcotics, or medication that could adversely affect judgment, mobility, or stability.
- The first shell fired shall be observed carefully to determine that its trajectory is such that the shell functions over the fallout area and that any hazardous debris or unexploded shells land in the fallout area. The display shall be interrupted and the mortars shall be reangled or repositioned as necessary for safety at any time during an outdoor fireworks display.

PART H – HALTING DISPLAY

- Wherever, in the opinion of the authority having jurisdiction or the operator, any hazardous condition exists, the fireworks display shall be postponed until the condition is corrected. Such conditions include but are not limited to the following:
 - The lack of crowd control,
 - If high winds, precipitation, or other adverse weather conditions prevail, or
 - If any unsafe condition is detected, such as hazardous debris falling into the audience, the spotter shall signal the shooter to cease firing until the unsafe condition is corrected.
- In the event of a condition arising requiring the entry of fire protection or other emergency response personnel into the fallout area or security perimeter, the display shall be halted until the situation is resolved and the area is once again clear.

PART I – POST DISPLAY INSPECTION

- Following the display, the firing crew shall conduct an inspection of the fallout area for the purpose of locating any unexploded aerial shells or live components. This inspection shall be conducted before any public access to the site shall be permitted.
- Where fireworks are displayed at night, a search of the fallout area shall be made immediately after the display and at first light the following morning by the operator or designated personnel acceptable to the authority having jurisdiction.

EXHIBIT "D"

Once the Fire Chief, or his or her designee, has signed this permit form, you must return to the local governmental authority issuing the permit to have it signed by the designated Officer in order for the permit to be valid.

OUTDOOR PYROTECHNIC DISPLAY PERMIT

Date _____ Permit No. _____

PERMITTEES:

Display Sponsor _____

Pyrotechnic Distributor _____

The above-identified permittees are hereby granted permission to conduct an Outdoor Pyrotechnic Display, using Display Fireworks, on _____,

(Month, Day, Year)

at _____ in _____, Illinois.

(Time)

(City/Village/Township/Unincorporated County)

In the event the display cannot be held on that date, the permittees are given permission to conduct said display at the above-identified location on _____,

at _____.

(Month, Day, Year)

(Time)

The Lead Pyrotechnic Operator, _____, is hereby

(Name)

designated as the supervisor of the display, and given overall responsibility for the safety, setup, discharge and supervision of the detonation, ignition, or deflagration of the Display Fireworks during the Outdoor Pyrotechnic Display.

Issuing Officer

I have reviewed the permit, inspected the site and approve this permit.

Fire Chief (or Designee)

This permit is non-transferable and must be in possession of the Lead Pyrotechnic Operator during the Outdoor Pyrotechnic Display.

CHAPTER 8

CABLE TELEVISION

ARTICLE I – CABLE/VIDEO SERVICE PROVIDER FEE
AND PEG ACCESS FEE

8-1-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Cable Service"** means that term as defined in 47 U.S.C. § 522(6).
 (B) **"Commission"** means the Illinois Commerce Commission.
 (C) **"Gross Revenues"** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the City.

- (1) Gross revenues shall include the following:
- (a) Recurring charges for cable or video service.
 - (b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
 - (c) Rental of set top boxes and other cable service or video service equipment.
 - (d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
 - (e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
 - (f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
 - (g) A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the City. The allocation shall be based on the number of subscribers in the City divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
 - (h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).
 - (i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
 - (j) The service provider fee permitted by 220 ILCS 5/22-501.
- (2) Gross revenues do not include any of the following:

- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/22-501.
 - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
 - (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
 - (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the City and pay the fee permitted by 220 ILCS 5/22-501 with respect to the service.
 - (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
 - (f) Security deposits collected from subscribers.
 - (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/22-501) which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/22-501.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/22-501.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/22-501 by the holder to a City for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

8-1-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the City.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues.

(C) **Notice to the City.** The holder shall notify the City at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the City.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the City. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/22-501 to the City.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the City in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/22-501(c) with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under the law.

8-1-3 PEG ACCESS SUPPORT FEE IMPOSED.

(A) **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the City in addition to the fee imposed pursuant to **Section 8-1-2(B)**.

(B) **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the City or its designee for PEG access support in the City.

(C) **Payment.** The holder shall pay the PEG access support fee to the City or to the entity designated by the City to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in **Section 8-1-2(D)**.

(D) **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/22-501** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-1-3(B)**.

8-1-4 APPLICABLE PRINCIPLES. All determinations and calculations under this

Article shall be made pursuant to generally accepted accounting principles.

8-1-5 **NO IMPACT ON OTHER TAXES DUE FROM HOLDER.** Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the City, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the City's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

8-1-6 **AUDITS OF CABLE/VIDEO SERVICE PROVIDER.**
(A) **Audit Requirement.** The City will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the City imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the City. If all local franchises between the City and cable operator terminate, the audit requirements shall be those adopted by the City pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

8-1-7 **LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

(See 220 ILCS 5/22-501)

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).

CHAPTER 10

CEMETERY

ARTICLE I - GENERAL PROVISIONS

10-1-1 **DEPARTMENT ESTABLISHED.** There is hereby established a department by the municipal government of the City, which shall be known as the Cemetery Department. It shall embrace the standing committee of the City Council on Cemetery and the Sexton.

10-1-2 **SEXTON APPOINTED.** The Mayor shall, at the first meeting of each year, appoint a Sexton for the Ell-Wood Cemetery, by and with the advice of the City Council.

The Sexton shall hold his office for the term of **one (1) year**, or until his successor shall be appointed and qualified.

The Sexton shall, subject to the order of the Mayor, City Council and Committee on Cemetery, have the full management and control of all matters and things pertaining to the Ell-Wood Cemetery.

Should the Sexton, at any time, deem it advisable to have any additional regulations for the government of the Cemetery, he may, subject to the approval of the Committee on Cemetery, from time to time, prescribe the same.

The City Clerk shall keep the records, including a complete account of the receipts and expenditures on account of the Cemetery, in a separate book, to be known as the Cemetery Book.

The Sexton shall make a monthly report of his acts and doings as such Sexton to the City Clerk, who shall thereupon present such report to the Committee on Cemetery for its approval.

10-1-3 **BURIAL GROUNDS.** The burial grounds in the City shall be known as the Ell-Wood Cemetery.

10-1-4 **MONUMENTS.** Any person desiring to place a monument in the Ell-Wood Cemetery shall first procure a permit from the Clerk. All monuments erected or placed in the Ell-Wood Cemetery shall be based upon a solid, well-seasoned, concrete foundation which shall be at least **two and one-half (2 1/2) feet deep** and of the same width at the bottom as at the top of the foundation.

10-1-5 **RECORDS.** It shall be the duty of the City Clerk to keep a record of all such lots, numbering each certificate when issued, commencing with the number as they are now recorded, and procure the signature of the Mayor and shall affix the seal of the City thereon.

10-1-6 **MORE THAN ONE (1) LOT.** Any person or persons may procure more than **one (1) lot** and may have them entered on **one (1) certificate**, and may have them join each other if practical, as appears on the plat of the cemetery, but in no case shall a reduction be made in price.

10-1-7 **INFORMATION CONCERNING DECEASED.** All persons buying lots in Ell-Wood Cemetery, shall furnish the City Clerk with a statement of the age, name and sex, place of birth, residence, disease or cause of death of the person to be interred.

10-1-8 **GRAVE DIGGING.** It shall be unlawful for anyone to commence digging of a grave in the City's cemetery prior to obtaining written permission from the City in the form as provided by this Chapter.

The City Clerk shall issue a Certificate authorizing the digging of graves in the Breese City Cemetery. This Certificate shall be in the form provided by this Chapter.

Applications for a Certificate authorizing a digging may be obtained at the Clerk's Office during normal office hours, or at the City Police station at any other time.

This Certificate shall be issued to the person doing the digging of the grave. The form of the Certificate shall be as follows:

Certificate No. _____ Date _____

_____ is hereby authorized to commence digging of a grave on gravesite number _____. The owner of this location is _____ . The remains of _____ will be buried on this location.

Issued _____
Date

CITY CLERK

The undersigned hereby certifies that he is familiar with the gravesite numbered _____ and that he is responsible for the digging of a grave to bury the remains of _____ .
_____.

DIGGER

(Ord. No. 498A; 11-13-81)

10-1-9 REGULATIONS. All lots sold in the Ell-Wood Cemetery shall be sold subject to the following conditions:

(A) Vault concrete box or casket will follow the cemetery lot markings per burial site.

(B) All vaults or concrete boxes must be covered by at least **eighteen (18) inches** of soil. No copings are permitted.

(C) Monuments and markers must have foundations with **four (4) inch** border.

(D) Veteran's markers, if in addition to headstone, should be placed flush with the ground at the foot of the grave.

(E) No trees, shrubs or other plants are to be planted without prior approval of the City.

(F) Flowers and wreaths should be placed near the headstones.

(G) Christmas decorations shall be removed by March 1, Easter decorations by May 1, and Memorial Day decorations by July 1. All decorations remaining after the indicated dates will be removed by maintenance crew. Crew will also remove spent flowers following interments and other special occasions.

(H) All filling, seeding, and fertilizing will be done by the cemetery workers.

(I) The City prohibits loitering, littering, and other activities not conducive to maintaining the dignity of the cemetery are considered trespassing. Violators will be prosecuted.

(J) Vaults shall not be required.

(K) Grave Digging: **See Section 10-1-8.**

(L) Purchase price of cemetery lots shall be **One Hundred Dollars (\$100.00).**

(Ord. No. 679A; 08-01-89)

CHAPTER 15

FLOOD PLAIN CODE

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 the public health, safety, and general welfare of the citizens from the hazards of flooding;
- (D) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (E) To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (F) To make federally subsidized flood insurance available; and
- (G) To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

15-1-2 **DEFINITIONS.** For the purposes of this Code, the following definitions are adopted:

"Base Flood": The flood having a **one percent (1%)** probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in **Section 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.

"Basement": That portion of a building having its floor sub-grade (below ground level) on all sides.

"Building": A walled and roofed structure, including gas or liquid storage tank, that is principally above ground, including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers to be installed on a site for more than **one hundred eighty (180) days** per year.

"Critical Facility": Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage

to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances).

“Development”: Any man-made change to real estate including, but not necessarily limited to:

- (A) Demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
- (B) Substantial improvement of an existing building;
- (C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days** per year;
- (D) Installation of utilities, construction of roads, bridges, culverts, or similar projects;
- (E) Construction or erection of levees, dams, walls, or fences;
- (F) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- (G) Storage of materials including the placement of gas and liquid storage tanks, and channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

“Development” does not include routine maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

“Existing Manufactured Home Park or Subdivision”: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

“Expansion to an Existing Manufactured Home Park or Subdivision”: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“FEMA”: Federal Emergency Management Agency.

“Flood”: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

“Flood Fringe”: That portion of the floodplain outside of the regulatory floodway.

"Flood Insurance Rate Map": A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

"Flood Insurance Study": An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"Floodplain" and "Special Flood Hazard Area (SFHA)": These two terms are synonymous. Those lands within the jurisdiction of the City, the extraterritorial jurisdiction of the City, or that may be annexed into the City, that are subject to inundation by the base flood. The floodplains of the City are generally identified as such on panel number(s) (0160) of the countywide Flood Insurance Rate Map of Clinton County, Illinois prepared by the Federal Emergency Management Agency and dated **August 2, 2007**. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated Clinton 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 Clinton County by the Federal Emergency Management Agency and dated **August 2, 2007**.

"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.

"FPE or Flood Protection Elevation": The elevation of the base flood plus **one (1) foot** of freeboard at any given location in the floodplain.

"Floodway": That portion of the floodplain required to store and convey the base flood. The floodways for each of the floodplains of the City shall be according to the best data available from Federal, State, or other sources.

"Freeboard": An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

"Historic Structure": Any structure that is:

(A) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

(C) Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.

(D) Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

"IDNR/OWR": Illinois Department of Natural Resources/Office of Water Resources.

"Lowest Floor": The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of **Section 15-1-7** of this Code.

"Manufactured Home": A structure transportable in one or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

"Manufactured Home Park or Subdivision": A parcel (or contiguous parcels) of land divided into **two (2)** or more lots for rent or sale.

"New Construction": Structures for which the start of construction commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

"New Manufactured Home Park or Subdivision": A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

"NFIP": National Flood Insurance Program.

"Recreational Vehicle or Travel Trailer": A vehicle which is:

- (A) built on a single chassis;
- (B) **four hundred (400) square feet** or less in size;
- (C) designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Repetitive Loss": Flood related damages sustained by a structure on **two (2)** separate occasions during a **ten (10) year** period for which the cost of repairs at the time of each such flood event on the average equals or exceeds **twenty-five percent (25%)** of the market value of the structure before the damage occurred.

"SFHA": See definition of floodplain.

"Start of Construction": Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within **one hundred eighty (180) days** of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

“Structure”: See “Building”.

“Substantial Damage”: Damage of any origin sustained by a structure whereby the cumulative percentage of damage subsequent to the adoption of this Code equals or exceeds **fifty percent (50%)** of the market value of the structure before the damage occurred regardless of the actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes “Repetitive Loss Buildings” (see definition).

“Substantial Improvement”: Any reconstruction, rehabilitation, addition or improvement of a structure taking place subsequent to the adoption of this Code in which the cumulative percentage of improvements:

- (A) equals or exceeds **fifty percent (50%)** of the market value of the structure before the improvement or repair is started, or
- (B) increases the floor area by more than **twenty percent (20%)**.

“Substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

- (A) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (B) Any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

“Violation”: The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the required federal, state, and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.

15-1-3 BASE FLOOD ELEVATION. This Code’s protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior any development of the site.

(A) The base flood elevation for the floodplains of (a) Germantown Road Tributary, (b) Shoal Creek, and (c) unnamed tributary of Shoal Creek shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of Clinton County prepared by the Federal Emergency Management Agency and dated **August 2, 2007**.

(B) The base flood elevation for each of the remaining floodplains delineated as an “A Zone” on the countywide Flood Insurance Rate Map of Clinton County shall be according to the best data available from federal, state or sources.

Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.

(C) The base flood elevation for the floodplains of those parts of unincorporated Clinton 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 Clinton County prepared by the Federal Emergency Management Agency and dated **August 2, 2007**.

15-1-4 **DUTIES OF THE PUBLIC WORKS MANAGER.** The Public Works Manager 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 Public Works Manager 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;
- (D) Assure that all subdivisions and annexations meet the requirements of **Section 15-1-8**;
- (E) Ensure that water supply and waste disposal systems meet the Public Health standards of **Section 15-1-9**;
- (F) If a variance is requested, ensure that the requirements of **Section 15-1-11** are met and maintain documentation of any variances granted;
- (G) Inspect all development projects and take any and all penalty actions outlined in **Section 15-1-13** as necessary to ensure compliance with this Code;
- (H) Assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- (I) Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- (J) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (K) Cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this Code;
- (L) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Code;
- (M) Perform site inspections to ensure compliance with this Code and make substantial damage determinations on structure within the floodplain; and

(N) Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within **six (6) months** whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

15-1-5 DEVELOPMENT PERMIT. No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without first obtaining a development permit from the Public Works Manager. The Public Works Manager shall not issue a development permit if the proposed development does not meet the requirements of this Code.

- (A) The application for a development permit shall be accompanied by:
- (1) drawings of the site, drawn to scale showing property line dimensions;
 - (2) existing grade elevations and all changes in grade resulting from excavation or filling;
 - (3) the location and dimensions of all buildings and additions to buildings;
 - (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; and
 - (5) cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.

(B) Upon receipt of an application for development permit, the Public Works Manager shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the requirements of this Code. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but not shown on the current Flood Insurance Rate Map, is subject to the provisions of this Code.

The Public Works Manager shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

The Public Works Manager shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Public Works Manager shall not issue a permit unless all other federal, state, and local permits have been obtained.

15-1-6 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES. Within any floodway identified on the countywide Flood Insurance Rate Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

(A) Except as provided in **Section 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) Bridge and culvert crossings of streams in rural areas meeting the following conditions of the IDNR/OWR Statewide Permit Number 2:
 - (a) the crossing will not result in an increase in water surface profile elevation in excess of **one (1) foot**; and
 - (b) the crossing will not result in an increase in water surface profile elevation in excess of **one-half (1/2) foot** at a point **one thousand (1,000) feet** upstream of the proposed structure.
 - (c) There are no buildings in the area impacted by the increases in water surface profile.
 - (d) The proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel.
 - (e) The design must be certified by a licensed professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit.
 - (f) The design must be certified by a second licensed professional engineer.
- (2) Barge fleeting facilities meeting the following conditions of IDNR/OWR Statewide Permit No. 3:
 - (a) The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.
- (3) Aerial utility crossings meeting the following conditions of IDNR/OWR Statewide Permit No. 4:
 - (a) The utility line must be constructed above the existing 100-year flood elevation or attached to an existing bridge.
 - (b) A utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge.

- (c) No supporting towers or poles shall be located in a river, lake or stream.
 - (d) Supporting towers including foundation and poles shall be designed and located so as to not cause an obstruction of flood flows by trapping debris.
 - (e) All disturbed areas shall be returned to pre-construction grades and re-vegetated.
 - (f) All Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.
- (4) Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit No. 5:
- (a) The boat dock must not extend more than **fifty (50) feet** into a waterway and no more than **one quarter (1/4)** of the width of the waterway and shall not extend beyond the navigational limited established by the IDNR and Corps of Engineers.
 - (b) The width of the boat dock shall not be more than **ten (10) feet**.
 - (c) For L-shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed **fifty percent (50%)** of the landowner's shoreline frontage nor **fifty (50) feet**.
 - (d) Docks must be aligned so as not to cross the projection of property lines into the waterway or come within **ten (10) feet** of the projected property line.
 - (e) Dock posts must be marked by reflective devices.
 - (f) The boat dock must be securely anchored to prevent detachment during times of high wind or water.
 - (g) Metal drums or containers may not be used as buoyancy units unless they are filled with floatation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible.
 - (h) This permit does not authorize any other related construction activity such as shore protection or fill.
 - (i) Non-floating boat docks must be constructed in a manner which will minimize obstruction to flow.
 - (j) At any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corp of Engineers.
- (5) Minor, non-obstructive activities meeting the following conditions of IDNR/OWR Statewide Permit No. 6:

- (a) the following activities (not involving fill or positive change in grade) are covered by this permit:
 - (i) The construction of underground utility lines, wells, or septic tanks not crossing a lake or stream.
 - (ii) The construction of light poles, sign posts, and similar structures.
 - (iii) The construction of sidewalks, driveways, athletic fields (excluding fences), patios, and similar structures.
 - (iv) The construction of properly anchored, unwallled, open structures such as playground equipment, pavilions, and carports.
 - (v) The placement of properly anchored buildings not exceeding **seventy (70) square feet** in size, nor **ten (10) square feet** in any dimension. Only one such building on a property is authorized by this statewide permit.
 - (vi) The raising of existing buildings, provided no changes are made to the outside dimensions of the building and the placement of fill is not involved.
- (6) Outfall structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit No. 7:
 - (a) Any outfall structure, including any headwall or end-section, shall not extend riverward or lakeward of the existing adjacent natural bank slope or adjacent bank protection.
 - (b) The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures.
 - (c) Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.
 - (d) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
- (7) Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 8:

- (a) In all cases, the crossing shall be placed beneath the bed of the river, lake or stream and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of **three (3) feet** of cover shall be provided. The river, lake or stream bed shall be returned to its original condition.
 - (b) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
 - (c) Any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (**415 ILCS 5**), shall be provided with shut-off valves on each side of the body of water to be crossed.
 - (d) If blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least **ten (10) days** prior to the blasting date to allow monitoring of any related fish kills.
- (8) Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9:
- (a) Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation and treated timber. Urban areas are defined as: areas of the State where residential, commercial, or industrial development currently exists or, based on land use plans or controls, is expected to occur within **ten (10) years**. (The Department should be consulted if there is a question of whether or not an area is considered urban).
 - (b) In addition to the materials listed in **Section 15-1-6(A)(8)(a)**, other materials (e.g. tire revetments) may be utilized in rural areas provided all other conditions of this permit are met.
 - (c) The following materials shall **not** be used in any case: auto bodies, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protections Act (**415 ILCS 5**).

- (d) The affected length of shoreline, stream bank, or channel to be protected shall not exceed, either singularly or cumulatively, **one thousand (1,000) feet**.
- (e) All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action.
- (f) Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
- (g) Materials shall not be placed higher than the existing top of the bank.
- (h) Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site. For projects involving continuous placement of riprap along the bank, toe of the bank or other similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than **ten percent (10%)** nor the volume of material placed exceed **two (2) cubic yards** per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.
- (i) If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
- (j) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.
- (k) In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation, unless:
 - (i) It is constructed in alignment with an existing seawall(s) or gabion structure(s), and
 - (ii) the volume of material placed, including the structure, would not exceed **two (2) cubic yards** per lineal foot.

- (l) Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance with local, state, and federal laws and rules, shall not be placed in a floodway.
- (9) Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit No. 10:
- (a) The accessory structure or building addition must comply with the requirements of the local floodplain ordinance.
 - (b) The principle structure to which the project is being added must have been in existence on the effective date of this permit (**July 25, 1988**).
 - (c) The accessory structure or addition must not exceed **five hundred (500) square feet** in size and must not deflect floodwaters onto another property, and
 - (d) must not involve the placement of any fill material.
 - (e) **No** construction shall be undertaken in, or within **fifty (50) feet** of the bank of the stream channel.
 - (f) The accessory structure or addition must be properly anchored to prevent its movement during flood conditions.
 - (g) Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review.
 - (h) Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.
- (10) Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit No. 11:
- (a) The affected length of the stream shall not either singularly or cumulatively exceed **one thousand (1,000) feet**.
 - (b) The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel, and
 - (c) the cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and down stream of the site.

- (d) Dredged or spoil material shall not be disposed of in a wetland and shall be either:
 - (i) removed from the floodway;
 - (ii) used to stabilize an existing bank provided no materials would be placed higher than the existing top of bank and provided the cross-sectional area of the natural channel would not be reduced by more than **ten percent (10%)**, nor the volume of material placed exceed **two (2) cubic yards** per lineal foot of streambank;
 - (iii) used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;
 - (iv) used to stabilize an existing levee provided the height of the levee would not be increased nor its alignment changed;
 - (v) placed in a disposal site previously approved by the Department in accordance with the conditions of the approval, or
 - (vi) used for beach nourishment, provided the material meets all applicable water quality standards.
 - (e) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.
- (11) Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR Statewide Permit No. 12:
- (a) A licensed professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 - (i) No buildings or structures have been impacted by the backwater induced by the existing structure, and
 - (ii) there is no record of complaints of flood damages associated with the existing structure.
 - (b) A licensed professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and

- the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.
- (c) The project shall not include any appreciable raising of the approach roads. (This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).
 - (d) The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit Number 9 (Minor Shoreline, Channel and Streambank Protection Activities) or Statewide Permit Number 11 (Minor Maintenance Dredging Activities).
 - (e) The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
- (12) Temporary construction activities meeting the following conditions of IDNR/OWR Statewide Permit No. 13:
- (a) No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state and local authorizations.
 - (b) The term "temporary" shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within **one (1) year** of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.
 - (c) The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain, the temporary project shall be constructed such that all water surface profile increases, due to the temporary project, are contained within the channel banks.

- (d) This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
 - (e) No temporary structure shall be placed within any river or stream channel until a licensed professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition Number 3 of this Statewide permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.
 - (f) The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.
 - (g) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
 - (h) Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act (**415 ILCS 5**).
- (13) Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements.
- (B) Other development activities not listed in **Section 15-1-6(A)** may be permitted only if:
- (1) A permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required); or
 - (2) Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

15-1-7 PROTECTING BUILDINGS.

(A) 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 or alteration or addition to an existing building valued at more than **One Thousand Dollars (\$1,000.00)** or **seventy (70) square feet**;
- (2) Substantial improvements or structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%)** or equal or exceed the market value by **fifty percent (50%)**. Alteration shall be figured cumulatively subsequent to the adoption of this Code. If substantially improved, the existing structure and the addition must meet the flood protection standards of this Section.
- (3) Repairs made to a substantially damaged building. These repairs shall be figured cumulatively subsequent to the adoption of this Code. If substantially damaged the entire structure must meet the flood protection standards of this Section.
- (4) Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).
- (5) Installing a travel trailer or recreational vehicle on a site for more than **one hundred eighty (180) days** per year.
- (6) Repetitive loss to an existing building as defined in **Section 15-1-2**.

(B) Residential or non-residential buildings can meet the building protection requirements by one of the following methods:

- (1) The building may be constructed on permanent land fill in accordance with the following:
 - (a) the lowest floor (including basement) shall be at or above the flood protection elevation;
 - (b) the fill shall be placed in layers no greater than **six (6) inches** before compaction and should extend at least **ten (10) feet** beyond the foundation before sloping below the flood protection elevation;
 - (c) the fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure;
 - (d) The fill shall be composed of rock or soil and not incorporated debris or refuse materials; and
 - (e) the fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques such as swales or basins shall be incorporated.

- (2) The building may be elevated on solid walls in accordance with the following:
- (a) the building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters;
 - (b) the lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
 - (c) if walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of floodwaters. Designs must either be certified by a licensed professional engineer or by having a minimum of one (1) permanent opening on each wall no more than **one (1) foot** above grade with a minimum of two (2) openings. The openings shall provide a total net area of not less than **one (1) square inch** for every **one (1) square foot** of enclosed area subject to flooding below the base flood elevation; and
 - (d) the foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.
 - (i) all structural components below the flood protection elevation shall be constructed of materials resistant to flood damage.
 - (ii) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
 - (iii) The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or
 - (iv) in lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed professional engineer or architect.

- (3) The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:
- (4) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (5) Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than **one (1) square inch** per **one (1) square foot** of enclosed area. The openings shall be no more than **one (1) foot** above grade.
- (6) The interior grade of the crawlspace below the flood protection elevation must not be more than **two (2) feet** below the lowest adjacent exterior grade.
- (7) The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed **four (4) feet** at any point.
- (8) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
- (9) Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
- (10) Utility systems within the crawlspace must be elevated above the flood protection elevation.

(C) Non-residential buildings may be structurally dry floodproofed (in lieu of elevation) provided a licensed professional engineer or architect certifies that:

- (1) Below the flood protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
- (2) The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.
- (3) Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
- (4) Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

(D) Manufactured homes or travel trailers to be permanently installed on site shall be:

- (1) elevated to or above the flood protection elevation in accordance with **Section 15-1-7(B)**; and
- (2) anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 IL Adm. Code § 870.

(E) Travel trailers and recreational vehicles on site for more than **one hundred eighty (180) days** per year shall meet the elevation requirements of **Section 15-1-7(D)** unless the following conditions are met:

- (1) the vehicle must be either self-propelled or towed by a light duty truck.
- (2) the hitch must remain on the vehicle at all times.
- (3) the vehicle must not be attached to external structures such as decks and porches.
- (4) the vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
- (5) the vehicles largest horizontal projections must be no larger than **four hundred (400) square feet**.
- (6) the vehicle's wheels must remain on axles and inflated.
- (7) air conditioning units must be attached to the frame so as to be safe for movement out of the floodplain.
- (8) propane tanks as well as electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation.
- (9) the vehicle must be licensed and titled as a recreational vehicle or park model.
- (10) the vehicle must be either:
 - (a) entirely supported by jacks or
 - (b) have a hitch jack permanently mounted, have the tires touching the ground and be supported by blocks in a manner that will allow the block to be easily removed by use of the hitch jack.

(F) Garages, sheds or other minor accessory structures constructed ancillary to an existing residential use may be permitted provided the following conditions are met:

- (1) The garage or shed must be non-habitable.
- (2) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
- (3) The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
- (4) The garage or shed must be on a single-family lot and be accessory to an existing principal structure on the same lot.

- (5) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.
- (6) All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
- (7) The garage or shed must have at least **one (1) permanent** opening on each wall no more than **one (1) foot** above grade with **one (1) square inch** of opening for every **one (1) square foot** of floor area.
- (8) The garage or shed must be less than **Ten Thousand Dollars (\$10,000.00)** in market value or replacement cost whichever is greater or less than **five hundred (500) square feet**.
- (9) The structure shall be anchored to resist flotation and overturning.
- (10) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
- (11) The lowest floor elevation shall be documented and the owner advised of the flood insurance implications.

15-1-8 SUBDIVISION 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) 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 protections 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 Licensed Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act **(765 ILCS 205/2)**.

Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

15-1-9 **PUBLIC HEALTH AND OTHER STANDARDS.**

(A) Public health standards must be met for all floodplain development. In addition to the requirements of **Sections 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 floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of **Section 15-1-7** of this Code.
- (2) Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
- (3) Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (4) New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.
- (5) Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or **three (3) feet** above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.

(B) All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

15-1-10 CARRYING CAPACITY AND NOTIFICATION. For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, the City shall notify adjacent communities in writing **thirty (30) days** prior to the issuance of a permit for the alteration or relocation of the watercourse.

15-1-11 VARIANCES. Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Zoning Board of Appeals for a variance. The Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the City Council. The City Council may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(A) No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:

- (1) The development activity cannot be located outside the floodplain;
- (2) An exceptional hardship would result if the variance were not granted;
- (3) The relief requested is the minimum necessary;
- (4) There will be no additional threat to public health, safety or creation of a nuisance;
- (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;
- (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
- (7) All other state and federal permits have been obtained.

(B) The Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protection standards of **Section 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)** per **One Hundred Dollars (\$100.00)** of insurance coverage;
- (2) Increase the risks to life and property; and
- (3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

(C) Variances to the building protection requirements of **Section 15-1-7** of this Code which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may

be granted using criteria more permissive than the requirements of **Sections 15-1-6** and **15-1-7** of this Code subject to the conditions that:

- (1) The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
- (2) The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

15-1-12 **DISCLAIMER OF LIABILITY.** The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the City or any officer or employee thereof for any flood damage that results from proper reliance on this Code or any administrative decision made lawfully thereunder.

15-1-13 **PENALTY.** Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Code. Upon due investigation, the City Attorney may determine that a violation of the minimum standards of this Code exists. The City Attorney shall notify the owner in writing of such violation.

(A) If such owner fails after **ten (10) days** notice to correct the violation:

- (1) The City shall make application to the Circuit Court for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with this Code.
- (2) Any person who violates this Code shall, upon conviction thereof, be fined not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense.
- (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.
- (4) The City shall record a notice of violation on the title of the property.

(B) The City Attorney shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

The City Attorney is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances

requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee and shall state:

- (1) The grounds for the complaint, reasons for suspension or revocation, and
- (2) The time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

(C) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

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 including: June 2, 2004. However, this Code does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants or deed restrictions. Where this Code and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 1144; 07-17-07)

CHAPTER 20

LIBRARY

ARTICLE I - LIBRARY BOARD

20-1-1 **ESTABLISHED.** There is hereby established a Public Library for the use and benefit of the inhabitants of the City.

20-1-2 **APPOINTMENT - COMPENSATION.** The Mayor shall, with the approval of the City Council, proceed to appoint a board of **nine (9) trustees** for the Public Library, chosen from the citizens at large with reference to their fitness for such office. Not more than **one (1) member** of the City Council shall be (at any one time) a member of the Library Board. **(See 75 ILCS Sec. 5/4-1)**

Trustees of the Library Board shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties from library funds. **(See 75 ILCS Sec. 5/4-5)**

20-1-3 **TERM.** The Mayor shall, before the **July 1st** of each year, appoint **three (3) trustees** to take the place of the retiring trustees who shall hold office for **three (3) years** and until their successors are appointed. By and with the advice and consent of the City Council, the Mayor may remove any trustee as provided in **Chapter 1, Article III** of this Code. **(See 75 ILCS Sec. 5/4-1.1)**

20-1-4 **VACANCIES.** Vacancies shall be declared in the office of a trustee by the board when the trustee declines or is unable to serve, or is absent without cause from all regular board meetings for a period of **one (1) year**, or is convicted of a misdemeanor for failing, neglecting, or refusing to discharge any duty imposed upon a trustee or becomes a nonresident of the City, or who fails to pay the library taxes levied by the corporate authorities. **(See 75 ILCS Sec. 5/4-4)**

20-1-5 **OATH OF OFFICE; ORGANIZATION; MEETINGS.**
(A) Within **sixty (60) days** after their appointment, the new trustees shall take their oath of office and meet to organize the board. The oath shall consist of the following:

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

(B) The first action taken at the organizational meeting of the board shall be the election of a president and a secretary and such other officers as the board may deem necessary and the board shall further provide in the bylaws of the board as to the length of the terms in office. The trustees shall determine the time and place of all official meetings of the board at which any legal action may be taken and shall post notice thereof at the public library maintained by the board and at not less than one public place within the corporate confines of the area of library service one day in advance thereof. **(See 75 ILCS Sec. 5/4-6)**

20-1-6 CUSTODIAN OF FUNDS. The City Treasurer shall be the custodian of all funds of the Library Board of Trustees. The cost of any bond necessary to satisfy the requirements of **Chapter 75, Section 5/4-9 of the Illinois Compiled Statutes** shall be borne by the library.

20-1-7 POWERS AND DUTIES. Each trustee of the City Library Board shall carry out the spirit and intent of this Chapter in establishing, supporting and maintaining a public library or libraries for providing library service and, in addition to, but without limiting other powers conferred by this Chapter shall have the following powers:

(A) To make and adopt such bylaws, rules and regulations for their own guidance and for the government of the library as may be expedient, not inconsistent with this Chapter.

(B) To have the exclusive control of the expenditure of all moneys collected for the library and deposited to the credit of the library fund;

(C) To have with Council approval, control of the construction of any library building and of the supervision, care and custody of the grounds, rooms or buildings constructed, leased or set apart for that purpose;

(D) To sell or otherwise dispose of any real or personal property that it deems no longer necessary or useful for library purposes, and to lease to others any real property not immediately useful, but for which plans for ultimate use have been or will be adopted, however, the corporate authorities shall have the first right to purchase or lease;

(E) To appoint and to fix the compensation of a qualified librarian, who shall have the authority to hire such other employees as may be necessary, to fix their compensation, and to remove such appointees, subject to the approval of the board and the City Council but these powers are subject to **Division I of Article 10 of the Illinois Municipal Code** in municipalities in which that Division is in force. The board may also retain counsel and professional consultants as needed; **(See 65 ILCS Sec. 5/10-1-1)**

(F) To contract with any public or private corporation or entity for the purpose of providing or receiving library service or of performing any and all other acts necessary and proper to carry out the responsibilities and the provisions of this Chapter. This power includes, but is not limited to participation in interstate library compacts and library systems, and to contract to supply library services and for the expenditure of any Federal or State funds made available to any county, municipality, township, or to the State of Illinois for library purposes;

(G) To join with the board or boards of any one or more libraries in this State in maintaining libraries, or for the maintenance of a common library or common library services for participants, upon such terms as may be agreed upon by and between the boards;

(H) To exclude from the use of the library any person who willfully violates the rules prescribed by the board;

(I) To extend the privileges and use of the library; including the borrowing of materials on an individual basis by persons residing outside of the City. If the board exercises this power, the privilege of library use shall be upon such terms and conditions as the board shall, from time to time, by its regulations, prescribe and for such privileges and use, the board shall charge a nonresident fee at least equal to the cost paid by residents of the City, with the cost to be determined according to the formula established by the **Illinois State Library**. The nonresident fee shall not apply to privilege and use provided under the terms of the library's membership in a library system operating under the provisions of the **Illinois Library System Act** or under the terms of any reciprocal agreement with a public or private corporation or entity providing a library service;

(M) To exercise the power of eminent domain subject to the prior approval of the corporate authorities under the provisions of **Illinois Compiled Statutes, Chapter 75, Sec. 5/5-1 and 5/5-2**.

(N) To join the public library as a member in the **Illinois Library Association** and the **American Library Association**, non-profit, non-political, **(501-C-3)** associations, as designated by the Federal Internal Revenue Service, having the purpose of library development and librarianship; to provide for the payment of annual membership dues, fees and assessments and act by, through, and in the name of such instrumentality by providing and disseminating information and research services, employing personnel and doing any and all other acts for the purpose of improving library development;

(O) To accumulate and set apart as reserve funds, portions of the unexpended balances of the proceeds received annually from taxes or other sources for the purpose of providing self-insurance against liabilities relating to the public library;

(P) To invest funds pursuant to the **Illinois Compiled Statutes Chapter 30, Section 235/1, et seq.**

20-1-8 **ADDITIONAL POWERS AND DUTIES.** In addition to all other powers and authority now possessed by it, the Board of Library Trustees shall have the following powers:

(A) To lease from any public building commission created pursuant to the provisions of the **Public Building Commission Act**, as now or hereafter amended, any real or personal property for library purposes for a period of time not exceeding **twenty (20) years; (See 50 ILCS Sec. 20/1 et seq.)**

(B) To pay for the use of this leased property in accordance with the terms of the lease and with the provisions of the **Public Building Commission Act**, as now or hereafter amended;

(C) Such lease may be entered into without making a previous appropriation for the expense thereby incurred. However, if the board undertakes to pay all or any part of the costs of operating and maintaining the property of a public building commission as authorized in subparagraph (D) of this Section, such expenses of operation and maintenance shall be included in the annual budget of such board annually during the term of such undertaking;

(D) In addition, the board may undertake, either in the lease with a public building commission or by separate agreement or contract with a public building commission, to pay all or any part of the costs of maintaining and operating the property of a public building commission for any period of time not exceeding **forty (40) years**. (See 75 ILCS Sec. 5/4-7.1)

20-1-9 **SELECTION AND USE OF LIBRARY MATERIALS.** The Board of Library Trustees may establish and review, at least biennially, a written policy for the selection of library materials and the use of library materials and facilities. No employee may be disciplined or dismissed for the selection of library materials when the selection is made in good faith and in accordance with the written policy required to be established pursuant to this Section. (See 75 ILCS Sec. 5/4-7.2)

20-1-10 **FREE TO PUBLIC.** The library established shall be free for the use of the inhabitants of the City, always subject to such rules and regulations as the Library Board of Trustees may adopt, in order to render the use of the library and reading room to the greatest benefit to the greatest number. (See 75 ILCS Sec. 5/4-7)

20-1-11 **ANNUAL REPORT.** Within **thirty (30) days** after the expiration of each fiscal year of the municipality, the Library Board of Trustees shall make a report of the condition of their trust on the last day of the fiscal year to the City Council. This report shall be made in writing and shall be verified under oath by the secretary or some other responsible officer of the Library Board of Trustees. The report shall contain the following:

(A) An itemized statement of the various sums of money received from the Library Fund and from other sources;

(B) An itemized statement of the objects and purposes for which those sums of money have been expended;

(C) A statement of the number of books and periodicals available for use and the number and character thereof circulated;

(D) A statement of the real and personal property acquired by legacy, purchase, gift or otherwise;

(E) A statement of the character of any extensions of library service which have been undertaken;

(F) A statement of the financial requirements of the library for the ensuing fiscal year for inclusion in the appropriation of the corporate authority and of the amount of money which, in the judgment of the Library Board of Trustees, it will be necessary to levy for library purposes in the next annual tax levy ordinance;

(G) A statement as to the amount of accumulations and the reasons therefor;

(H) A statement as to any outstanding liabilities including those for bonds still outstanding or amounts due for judgments, settlements, liability insurance, or for amounts due under a certificate of the board;

(I) Any other statistics, information and suggestions that may be of interest.

A report shall also be filed at the same time with the **Illinois State Library**.
(See 75 ILCS Sec. 5/4-10)

20-1-12 DONATIONS. Any person desiring to make donations of money, personal property or real estate for the benefit of such library shall have the right to vest the title of the money or real estate so donated in the Library Board of Trustees to be held and controlled by the board when accepted, according to the terms of the deed, gift, devise or bequest of such property, and as to such property, the Board of Trustees shall be held and considered as special trustees. (See 75 ILCS)

20-1-13 DISTURBANCE PROHIBITED - PENALTY. Any person who shall create any disturbance while in the rooms of the Public Library, or who shall be guilty of any conduct calculated to annoy or disturb others in said library and who shall not cease said conduct when requested to do so by the Librarian or other person in charge, shall be subject to arrest under the provisions of this Chapter.

20-1-14 INJURY TO OR FAILURE TO RETURN BOOKS - PENALTY. No person shall maliciously cut, injure, deface, tear, or destroy any book, newspaper, periodical, or picture belonging to the Public Library. No person shall fail to return any book or books taken from the Library at the time when, by the rules of the Library, the same should be returned. The person shall promptly pay the fine provided for by the rules and regulations governing the Library, as the same have been or may be established by the Library Board of Trustees.

20-1-15 REFERENCE. The City Council does hereby include by reference, all provisions of **Chapter 75; Paragraph 5/4, et seq. of the Illinois Compiled Statutes** applicable to the City Library that are not provided heretofore.

CHAPTER 21

LIQUOR

ARTICLE I - GENERALLY

21-1-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

"ALCOHOL" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(See 235 ILCS 5/1-3.05)**

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(See 235 ILCS 1-3.04)**

"CATERER RETAILER" means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(See 235 ILCS 5/1-3.34)**

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in

the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(See 235 ILCS 5/1-3.24)**

"CORPORATION" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

"DISTILLED SPIRITS". See "Spirits".

"EVENT" means a single theme. **(Rules and Regulations 100.10(o))**

"HOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(See 235 ILCS 5/1-3.25)**

"MANAGER" OR "AGENT" means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

"MAYOR" means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

"MEAL" means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(See 235 ILCS 5/1-3.06)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PARTNER" is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

“PREMISES/PLACE OF BUSINESS” means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

“PRIVATE FUNCTION” means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

“PUBLIC PLACE” means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **“public place”** and **“public premises”** shall be interchangeable for the purposes of this Chapter.

“RESIDENT” means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license and is a registered voter. **(Rule 100.10(a))**

“RESTAURANT” means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(See 235 ILCS 5/1-3.23)**

“RETAILER” means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(See 235 ILCS 5/1-3.17)**

“SALE” means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(See 235 ILCS 5/1-3.21)**

“SELL AT RETAIL” and **“SALE OF RETAIL”** refer to any mean sales for use or consumption and not for resale in any form. **(See 235 ILCS 5/1-3.18)**

“SPECIAL EVENT” means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(See 235 ILCS 5/1-3.30)**

“SPECIAL EVENTS RETAILER” means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(See 235 ILCS 5/1-3.17.1)**

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(See 235 ILCS 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. **(See 235 ILCS 5/1-3.22)**

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(See 235 ILCS 5/1-3.03)**

[All references to "Rules" refer to Illinois Liquor Control Commission Rules located in Title 11; Subtitle A; Chapter 1; Part 1; Section 100.5 et seq. of the Illinois Administration Code.]

ARTICLE II - LICENSES

21-2-1 LICENSE REQUIRED. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(See 235 ILCS 5/4-1)**

21-2-2 APPLICATIONS. The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the City Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

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

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

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **two (2) members** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(See 235 ILCS 5/7-1)**

21-2-3 **EXAMINATION OF APPLICANT.** The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(See 235 ILCS 5/4-5)**

21-2-4 **PROHIBITED LICENSEES.** Except as otherwise provided in paragraph (U) of this Section, no license of any kind shall be issued by the Mayor to the following:

- (A) A person who is not a resident of this City;
- (B) A person who is not of good character and reputation in the community in which he resides;
- (C) A person who is not **twenty-one (21) years** of age;
- (D) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- (E) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (G) A person whose license issued under this Act has been revoked for cause;
- (H) A person who, at the time of the application for renewal of any license issued hereunder, would not be eligible for such license upon first application;
- (I) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner

interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance;

(J) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;

(K) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the "**Business Corporation Act of 1983**" to transact business in Illinois;

(L) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee;

(M) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation;

(N) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;

(O) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, and no such official shall be interested directly in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and except that a license may be granted, in a city with a population of **fifty thousand (50,000)** or less, to any alderman, member of a city council, in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected;

(P) A person who is not a beneficial owner of the business to be operated by the licensee;

(Q) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, or as prescribed by a statute replaced by any of the aforesaid statutory provisions;

(R) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(S) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Section 5/6-21 of Chapter 235 of the Illinois Compiled Statutes;

(T) A person who is delinquent in the payment of any indebtedness or obligation to the City;

(U) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Mayor shall determine if all provisions of this paragraph (U) have been met before any action on the corporation's license is initiated. (See 235 ILCS 5/6-2)

21-2-5 **TERM; 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 **January 1st to December 31st** of the same 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 City Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. (See 235 ILCS 5/4-1)

21-2-6 **LICENSE CLASSIFICATION - FEES.** There shall be **five (5) classes** of licenses which shall be referred to as:

(A) **Class "A" License.** Class "A" licenses shall authorize the retail sale, on the premises specified, of alcoholic liquor of all varieties for consumption on or off the premises. The annual fee for such license shall be **Three Hundred Dollars (\$300.00)**. The local liquor commissioner may issue not more than **eighteen (18)** Class "A" licenses. This limitation shall not apply to licenses for the sale of alcoholic liquor issued to a licensee whose main business is the serving of food to the public, and where the sale of alcoholic liquor is incidental to the sale of food for consumption on the premises, and the Local Liquor Control Commissioner may issue a license for the sale of alcoholic liquor where the liquor is to be served incidental to the serving of food even though **eighteen (18) licenses** for the sale of alcoholic liquor at retail within the limits of the City may be issued and outstanding at that time.

(B) **Class "B" License.** Class "B" license shall authorize the retail sale, on the premises specified, of alcoholic liquor of all varieties for consumption off the premises. The

annual fee for such license shall be **Three Hundred Dollars (\$300.00)**. The local liquor commissioner may issue not more than **eight (8)** Class "B" licenses.

(C) **Class "C" License.** Class "C" license shall authorize only the retail sale of beer for consumption on the premises for **six (6) month** of the calendar year. The annual fee for such license shall be **One Hundred Dollars (\$100.00)**. The local liquor commissioner may issue not more than **four (4)** Class "C" licenses.

(D) **Class "D" License.** Class "D" license shall authorize only the retail sale of beer and wine for consumption off the premises except where the retail sale on the premises consist of **fifty-one percent (51%)** or more in food sales, beer and wine may be consumed on the premises. The local liquor commissioner may issue not more than **eight (8)** Class "D" licenses.

(E) **Class "E" License.** Class "E" license shall be authorized for the sale of alcohol and liquor of all varieties for consumption on the premises of the public golf course in the City. Said license shall be issued only to a manager, proprietor or franchiser on the premises of the Breese Municipal Golf Course, known as Bent Oak Golf Course.

(F) **License by the Hour.**

- (1) Upon application, the Local Liquor Commissioner is authorized to issue a license for a period of **twelve (12) or twenty-four (24) hours** to any person who keeps or desires to keep any place selling or offering for sale, or in any manner dealing in any alcoholic liquors. The fee for such license shall be for the sale of alcoholic liquors, the sum of **Six Dollars (\$6.00)** for each **twelve (12) hours**; for more than **twelve (12) hours** and not more than **twenty-four (24) hours** within any **one (1) day**, the fee shall be **Ten Dollars (\$10.00)**, subject to the provisions of this Chapter.
- (2) Such person shall give the bond required by law and this Chapter governing the sale or giving away of alcoholic liquors.
- (3) No such license shall be transferable.
- (4) The Local Liquor Commissioner may waive the fee for a license by the hour for any applicant which is a school located within the City limits or for any Civic Organization based within the City.

(See 235 ILCS 5/4-1) (Ord. No. 1206; 04-06-10)

21-2-7 **NATURE OF LICENSE.** A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. (See 235 ILCS 5/6-1) (See Attorney General's Report No. 703; 01-08-48)

21-2-8 LIMITATION OF LICENSES.

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(See 235 ILCS 5/4-1)**

21-2-9 DRAMSHOP INSURANCE. No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following coverages up to the full amount of potential liability as established by the Illinois Compiled Statutes from time to time. **(235 ILCS 5/6-21)**

21-2-10 DISPLAY OF LICENSE. Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(See 235 ILCS 5/6-24)**

21-2-11 RECORD OF LICENSES. The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours**. **(See 235 ILCS 5/4-1)**

ARTICLE III - REGULATIONS

21-3-1 HOURS.

(A) Class "A" and "B" Licensees. It shall be unlawful for Class "A", "B", "C" and "D" licensees to sell or offer for sale at retail any alcoholic liquor in the City between the hours of **one o'clock (1:00) A.M.** and **six o'clock (6:00) A.M.** any day of the week. It shall be unlawful to keep open for business or admit the public to any premise in or on which alcoholic liquor is sold during the hours within which the sale of alcoholic liquor is prohibited as above provided.

(B) Restaurants. A restaurant may be kept open after these hours, but no alcoholic liquor may be sold or consumed by the public.

(C) Late Closing Permit. The Liquor Control Commissioner is hereby authorized to issue a Late Closing Permit to any person holding a valid license issued by the City for the sale of alcoholic liquor at retail. No fee shall be charged for this permit. Those establishments for which a Late Closing Permit is issued shall be prohibited from selling or offering for sale any alcoholic beverage in the City between the hours of **2:00 A.M.** and **6:00 A.M.** any day of the week. It shall be unlawful for any person holding a Late Closing Permit or any establishment for which said permit is held to keep open for business, or admit the public, or allow the public to remain on the premises in or on which alcoholic liquor is sold during the hours within which the sale of alcoholic liquor is prohibited. Any establishment not holding a Late Closing Permit, or has had such permit revoked, shall observe and enforce the closing hours heretofore established in this Section. The issuance and retention of a Late Closing Permit is a privilege and not a right. The Mayor, or the Liquor Control Commissioner, or their authorized agent, may revoke or suspend any liquor license holder's Late Closing Permit as he or she deems appropriate. The Police Department may close the establishment for the remainder of the day when warranted. **(Ord. No. 1305; 08-05-14)**

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) Serve **two (2)** or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except conducting product sampling pursuant to paragraphs (A) and (B) below or selling or delivering wine by the bottle or carafe;
 - (a) Retailer, distributor, importing distributor, manufacturer and nonresident dealer licensees may conduct product sampling for consumption at a licensed retail location. Up to **three (3)** samples, consisting of no more than (i) **one-fourth (1/4) ounce** of distilled spirits, (ii) **one (1) ounce** of wine, or (iii) **two (2) ounces** of beer may be served to a consumer in **one (1) day**.
 - (b) Notwithstanding the provisions of subsection (A), an on-premises retail licensee may offer for sale and serve more than **one (1)** drink per person for sampling purposes without violating paragraph (1) of subsection (b) of Section 6-28 or paragraph (6) of subsection (c) of Section 6-28 of this Act, provided the total quantity of the sampling package, regardless of the number of containers

in which the alcoholic liquor is being served, does not exceed **one (1) ounce** of distilled spirits, **four (40 ounces)** of wine, or **sixteen (16) ounces** of beer. In any event, all provisions of this Section shall apply to an on-premises retail licensee that conducts product sampling.

- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public;
- (3) Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection C(7) of this Section.
- (4) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- (5) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licensed premises; or
- (6) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (5).

(C) Nothing in subsection (B) shall be construed to prohibit a licensee from:

- (1) Offering free food or entertainment at any time;
- (2) Including drinks or alcoholic liquor as part of a meal package;
- (3) Including drinks of alcoholic liquor as part of a hotel package;
- (4) Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
- (5) Providing room service to persons renting rooms at a hotel;
- (6) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to **two (2)** or more persons at one time; or
- (7) Increasing prices of drinks of alcoholic liquor in lieu of, in whole, or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by this Code. **(235 ILCS 5/6-28)**

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for

veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(235 ILCS 5/6-11)**

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. **(235 ILCS 5/7-14)**

21-3-5 **STORES SELLING SCHOOL SUPPLIES, LUNCHESES, 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 POSSESSION OR CONSUMPTION OF ALCOHOL BY AN UNDERAGE PERSON.

(A) It shall be unlawful for a person under lawful drinking age to be in possession of or to consume alcoholic beverages.

(B) Any person under lawful drinking age found to be in possession of or found to be consuming alcoholic beverages shall be fined in an amount up to **Seventy-Five Dollars (\$75.00)** for the first such offense and shall be required to perform up to **eight (8) hours** of community service.

(Ord. No. 1183; 03-17-09)

21-3-10 RESTRICTED RESIDENTIAL AREAS. It shall be unlawful to establish a retail liquor business within the municipality in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

21-3-11 ELECTION DAYS. All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

21-3-12 UNLAWFUL ACTS. It shall be unlawful for any person to do or commit any of the following acts within the City, to-wit:

(A) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Mayor.

(B) Drink any alcoholic liquors in any public park, except with the permission of the Mayor.

(C) Drink any alcoholic liquors in any private property without permission of the owner thereof.

(D) Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

21-3-13 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees **[topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward]**, or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or 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.

21-3-14 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(See 410 ILCS 650/1 et seq.)**

21-3-15 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(See 410 ILCS 650/10)**

21-3-16 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the Clinton County Health Department which regulates health standards.

21-3-17 PEDDLING. It shall be unlawful to peddle alcoholic liquor in this municipality. **(See 235 ILCS 5/4-1)**

21-3-18 GAMBLING. It is unlawful to keep, place, maintain or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, except in the following instances:

- (A) **Bingo.** When conducting or participating in the game commonly known as Bingo, when conducted in accordance with the Bingo License and Tax Act **(230 ILCS 25/1 et seq.)**;
- (B) **Video Poker.** Video Gaming Terminal games at a licensed establishment, licensed fraternal organization, or licensed veteran's establishment, when conducted in accordance with the Video Gaming Act. **(230 ILCS 40/1 et seq.)**
(Ord. No. 1251; 04-03-12)

21-3-19 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. (See 235 ILCS 5/4-1)

21-3-20 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. (235 ILCS 5/6-16)

21-3-21 PERSONS SELLING LIQUOR. It shall be unlawful for any person under the age of **eighteen (18) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any retail premises. (See 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. (See 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. (See 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. (See 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 City Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

“YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS CITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR.”

21-3-26 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. **(See 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. **(See 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. **(See 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. **(See 235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(See 235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(See 235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(See 235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(See 235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-30 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. **(See 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. **(See 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. **(See 235 ILCS 5/6-16)**

21-3-33 RESIDENTIAL DRINKING. Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **twenty-one (21) years** of age and the following factors also apply:

(A) the person occupying the residence knows that any such person under the age of **twenty-one (21)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **twenty-one (21)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **twenty-one (21)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(See 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. **(See 235 ILCS 5/6-16)**

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(See 235 ILCS 5/10-2)**

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(See 235 ILCS 5/10-3)**

21-4-3 REVOCAION OF LICENSE AFTER CONVICTION. Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(See 235 ILCS 5/10-4)**

21-4-4 REVOCAION OF LICENSE WHEN EMPLOYEE CONVICTED. Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(See 235 ILCS 5/10-5)**

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(See 235 ILCS 5/10-6)**

21-4-6 ABATEMENT OF PLACE USED IN VIOLATION. Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic

liquor intended for illegal sale or to be sold, disposed of or in any other manner used in violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(See 235 ILCS 5/10-7)**

21-4-7 **USE OF PREMISES FOR ONE YEAR AFTER REVOCATION.** When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(See 235 ILCS 5/7-13)**

21-4-8 **REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(See 235 ILCS 5/4-4)**

21-4-9 **COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(See 235 ILCS 5/7-7)**

21-4-10 REVOCAION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING. The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A) **Fine as Opposed to Suspension or Revocation.** In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars (\$1,500.00) for a second violation within a twelve (12) month period, and Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (See P.A. 89-0063)

(B) **Revocation and Suspension: Notice.** However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Liquor Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) **Hearing.** The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the license. The findings of the Commissioner shall be predicted upon competent evidence. (See 235 ILCS 5/7-5)

21-4-11 APPEALS FROM ORDER OF LIQUOR COMMISSIONER. Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action by appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of

the licensed business pending the decision of the State Commission and the expiration of the time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(See 235 ILCS 5/7-9)**

21-4-12 **SUBSEQUENT VIOLATIONS IN A YEAR.** In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period**. **(See 235 ILCS 5/7-9)**

21-4-13 **APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION.** Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(See 235 ILCS 5/7-9)**

ARTICLE V – LIQUOR CONTROL COMMITTEE

21-5-1 **ESTABLISHED.** There is hereby established the Breese Liquor Control Committee.

21-5-2 **MEMBERSHIP IN COMMITTEE.** The membership in the Breese Liquor Control Committee shall consist of the Breese Liquor Control Commissioner and at least **two (2)** other members selected by the Commissioner (hereinafter referred to as “Liquor Control Assistants”). The Commissioner shall select the Alderman currently designated to act as Mayor Pro-Tem when needed and the Alderman currently serving as the Chair of the Public Safety Committee as **two (2) members** (Assistants) of the Breese Liquor Control Committee to serve with the Liquor Control Commissioner as Assistants.

21-5-3 **VACANCY IN COMMITTEE OR ABSENCE OF ASSISTANT.** In the event that an Assistant is not available to serve at a meeting or function of the Committee, then the Breese Liquor Control Commissioner shall appoint, at his discretion, a substitute assistant to serve on the Committee at such meeting or function. In the event that there is a permanent vacancy in the committee and the designated Mayor Pro-Tem or the Chair of the Public Safety Committee is unable or unwilling to serve as a member of the Committee, or, in the event that the Commissioner shall determine to appoint additional members of the Committee to serve as assistants, then the Commissioner in his sole and absolute discretion shall appoint a new or additional member(s) to serve on the Committee.

21-5-4 **DUTIES OF LIQUOR CONTROL ASSISTANTS.** The Liquor Control Assistants shall assist the Liquor Control Commissioner in the performance of his or her duties as the Commissioner directs. They shall be present at all hearings and meetings of the Liquor Control Committee and shall render advice to the Commissioner. All decisions of the Liquor Control Committee shall be made by the Commissioner who shall have the option to accept or reject the advice or suggestions of the Committee. With respect to the matters of the Liquor Control in the City, the Commissioner shall have final decision making authority.

21-5-5 **TERM OF MEMBERS.** Members of the Liquor Control Committee serving as Assistants shall serve until replaced by the Commissioner. The Assistants serve at the direction of the Commissioner and can be terminated or replaced at the Commissioner's discretion.

21-5-6 **REPORTS TO THE CITY COUNCIL.** The Committee shall provide to the City Council reports of the status of any actions taken and results achieved by the Committee.

(Ord. No. 1203; 12-15-09)

CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT POLICY

22-1-1 **PROGRAM ADOPTION.** The City developed this Identity Theft Prevention Program pursuant to the Federal Trade Commission's Red Flags Rule, which implements Section 114 of the Fair and Accurate Credit Transactions of 2003. 16 C.F.R. § 681.2. This Program was developed with oversight and approval of the City. After consideration of the size and complexity of the Utility's operations and account systems, and the nature and scope of the Utility's activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program on February 9, 2009.

22-1-2 **PROGRAM PURPOSE AND DEFINITIONS.**

(A) **Fulfilling Requirements of the Red Flags Rule.** Under the Red Flag Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
- (2) Detect Red Flags that have been incorporated into the Program;
- (3) Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
- (4) Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

(B) **Red Flags Rule Definitions Used in this Program.** The Red Flags Rule defines "Identity Theft" as "fraud committed using the identifying information of another person" and a "Red Flag" as "a pattern, practice, or specific activity that indicates the possible existence of Identity Theft."

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors "to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."

All the Utility's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a "covered account" is:

- (1) Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
- (2) Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.

“Identifying information” is defined under the Rules as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including: name, address, telephone number, social security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer’s Internet Protocol address, or routing code.

22-1-3 IDENTIFICATION OF RED FLAGS. In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

(A) **Notifications and Warnings From Credit Reporting Agencies; Red Flags.**

- (1) Report of fraud accompanying a credit report;
- (2) Notice or report from a credit agency of a credit freeze on a customer or applicant;
- (3) Notice or report from a credit agency of an active duty alert for an applicant; and
- (4) Indication from a credit report of activity that is inconsistent with a customer’s usual pattern or activity.

(B) **Suspicious Documents; Red Flags.**

- (1) Identification document or card that appears to be forged, altered or inauthentic;
- (2) Identification document or card on which a person’s photograph or physical description is not consistent with the person presenting the document;
- (3) Other document with information that is not consistent with existing customer information (such as if a person’s signature on a check appears forged); and
- (4) Application for service that appears to have been altered or forged.

(C) **Suspicious Personal Identifying Information; Red Flags.**

- (1) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
- (2) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
- (3) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- (4) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- (5) Social security number presented that is the same as one given by another customer;
- (6) An address or phone number presented that is the same as that of another person;

- (7) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
- (8) A person's identifying information is not consistent with the information that is on file for the customer.

(D) **Flags.**

Suspicious Account Activity or Unusual Use of Account; Red

- (1) Change of address for an account followed by a request to change the account holder's name;
- (2) Payments stop on an otherwise consistently up-to-date account;
- (3) Account used in a way that is not consistent with prior use (example: very high activity);
- (4) Mail sent to the account holder is repeatedly returned as undeliverable;
- (5) Notice to the Utility that a customer is not receiving mail sent by the Utility;
- (6) Notice to the Utility that an account has unauthorized activity;
- (7) Breach in the Utility's computer system security; and
- (8) Unauthorized access to or use of customer account information.

(E)

Alerts From Others; Red Flag.

- (1) Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

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DETECTING RED FLAGS.

(A) **New Accounts.** In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

- (1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- (2) Verify the customer's identity (for instance, review a driver's license or other identification card);
- (3) Review documentation showing the existence of a business entity; and
- (4) Independently contact the customer.

(B) **Existing Accounts.** In order to detect any of the Red Flags identified above for an **existing account**, Utility personnel will take the following steps to monitor transactions with an account:

- (1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- (2) Verify the validity of requests to change billing addresses; and
- (3) Verify changes in banking information given for billing and payment purposes.

22-1-5 PREVENTING AND MITIGATING IDENTITY THEFT.

(A) **Prevent and Mitigate.** In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

- (1) Continue to monitor an account for evidence of Identity Theft;
- (2) Contact the customer;
- (3) Change any passwords or other security devices that permit access to accounts;
- (4) Not open a new account;
- (5) Close an existing account;
- (6) Reopen an account with a new number;
- (7) Notify the Program Administrator for determination of the appropriate step(s) to take;
- (8) Notify law enforcement; or
- (9) Determine that no response is warranted under the particular circumstances.

(B) **Protect Customer Identifying Information.** In order to further prevent the likelihood of Identity Theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- (1) Ensure that its website is secure or provide clear notice that the website is not secure;
- (2) Ensure complete and secure destruction of paper documents and computer files containing customer information;
- (3) Ensure that office computers are password protected and that computer screens lock after a set period of time;
- (4) Keep offices clear of papers containing customer information;
- (5) Request only the last 4 digits of social security numbers (if any);
- (6) Ensure computer virus protection is up to date; and
- (7) Require and keep only the kinds of customer information that are necessary for utility purposes.

22-1-6 PROGRAM UPDATES. The Program Administrator will periodically review and update this Program to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. In doing so, the Program Administrator will consider the Utility's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the Utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the City Council with his or her recommended changes and the City Council will make a determination of whether to accept, modify or reject those changes to the Program.

22-1-7 PROGRAM ADMINISTRATION.

(A) **Oversight.** Responsibility for developing, implementing and updating this Program lies with an Identity Theft Committee for the Utility. The Committee is headed by a Program Administrator who may be the head of the Utility or his or her appointee. Two or

more other individuals appointed by the head of the Utility or the Program Administrator comprise the remainder of the committee membership. The Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

(B) **Staff Training and Reports.** Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

(C) **Service Provider Arrangements.** In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

- (1) Require, by contract, that service providers have such policies and procedures in place; and
- (2) Require, by contract, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

(D) **Non-Disclosure of Specific Practices.** For the effectiveness of this Identity Theft Prevention Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Identity Theft Committee who developed this Program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "security information" as defined in Minnesota Statutes Section 13.37 and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the Utility's Identity Theft prevention efforts in order to facilitate the commission of Identity Theft.

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RESERVED.

ARTICLE II - SOCIAL SECURITY NUMBER DISCLOSURE POLICY

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

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performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.

- (2) Require an individual to use his or her Social Security Number to access an Internet website.
- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

(C) circumstances:

The prohibitions in subsection (B) do not apply in the following

- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the City or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the City must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the City to protect an individual's Social Security Number will be achieved.
- (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
- (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: City employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a City facility.
- (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
- (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the City for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the City shall control.

22-2-3 PUBLIC INSPECTION AND COPYING OF DOCUMENTS.

Notwithstanding any other provision of this policy to the contrary, all officers and employees of the City must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an

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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.

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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

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(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.

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(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.

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(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 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.

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(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.

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.

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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 Article) 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 under the Act, is hereby prohibited.

(D) The participation in political activities prohibited under the Act, by any officer or employee of the City, is hereby prohibited.

(E) For purposes of this Article, 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 Article shall be the same as those penalties set forth in **5 ILCS 430/50-5** for similar violations of the Act.

(G) This Article 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 Article, however, the provisions of this Article 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 Article shall be incorporated into this Article 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 Article 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 Article 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. The Article 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 Article shall remain in full force and effect; however, that part of this Article 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. 1062; 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 prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K) **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

22-7-2 **NON-DISCRIMINATORY PRACTICES.** The City will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

22-7-3 **CONTRACTING WITH NON-COMPLAINTS.** The City will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A) The City will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

- (1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:
 - (a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
 - (b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
 - (c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
 - (d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act

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and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

- (e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
- (f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
- (g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

22-7-4 **OUTREACH TO ALL.** The City assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

22-7-5 **MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the City as well as surrounding areas.

22-7-6 **ACCOMMODATIONS FOR DISABLED.** The City will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

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22-7-7 **COMPLIANCE BY EMPLOYEES.** All City employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out City program activities.

22-7-8 **DESIGNATED ENFORCERS.** The City designates the Mayor and the City Council to carry out the EEO/AA plan.

ARTICLE VIII - DRUG FREE WORKPLACE

22-8-1 **DEFINITIONS.**

(A) **"Drug Free Workplace"** means any place for the performance of work for or on behalf of the City, done by an employee of the City, or an employee of a contractor or subcontractor performing work for the City.

(B) **"Employee"** as used within the meaning of this Article, means an employee of the City as well as an employee of a contractor or subcontractor performing work for the City.

(C) **"Controlled Substance"** means a controlled substance as defined in the Illinois Controlled Substance Act, **720 ILCS 570/100 et seq.** (1992 State Bar Edition) or Cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.** (1992 State Bar Edition).

(D) **"Conviction"** means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(E) **"Criminal Drug Statute"** means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(F) **"State"** means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths, of the State government which are created by or pursuant to statute.

22-8-2 **REQUIREMENTS FOR CITY.** The City shall provide a drug free workplace by:

(A) **Publishing a Statement.**

(1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace.

(2) Specifying the actions that will be taken against employees for violations of such prohibition.

(3) Notifying employee that, as a condition of employment, the employee will:

(a) abide by the terms of the statement; and

(b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.

(B) Establishing a drug free awareness program to be administered by a person appointed by the Mayor to inform employees about:

(1) the dangers of drug abuse in the workplace;

(2) the City's policy of maintaining a drug free workplace;

(3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug violations.

MANDATED POLICIES 22-8-2

(C) A copy of the statement required by Subsection (A) above shall be given to each employee and posted in a prominent place in the workplace.

(D) If the City receives a grant from the State or Contract for the procurement of any property or services from the State, then the City shall notify the contracting or granting agency within **ten (10) days** after receiving notice under part (b) of paragraph (3) of Subsection (A) from an employee or otherwise receiving actual notice of such conviction.

(E) Within **thirty (30) days** from receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace, the Mayor shall take action against such employee as may be appropriate as determined by the Mayor and which may include but is not limited to reprimand; suspension for any length of time with or without pay; termination from employment; and/or a requirement to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(F) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(G) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

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 “**manufactured 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 which extends into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, poured wall or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. In addition, piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the structure, provided the support beams are affixed to the permanent perimeter foundation.

“PERMANENT HABITATION” means a period of **two (2) or more months**.

“PERMIT” means a certificate issued by the Building or Zoning Inspector, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

“REVOCATION” means to declare invalid a permit or license issued to the applicant or licensee by this City for an indefinite period of time.

“SITE” means the lot on which the manufactured home is located for permanent habitation. (See 210 ILCS 115/2.7)

“SPACE” shall be synonymous with “**Manufactured Home Space**”.

“SUSPENSION” means to declare invalid a permit or license issued to the applicant or licensee by this City for a temporary period of time with an expectation of resumption.

23-1-2 STATE REQUIREMENTS ADOPTED BY REFERENCE. The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

23-1-3 MANUFACTURED HOUSING ACT ADOPTED. The **Illinois Manufactured Housing and Manufactured Home Act**, as passed and approved by the **Illinois General Assembly** is hereby adopted by the City, the applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the City. (See 430 ILCS 115/1 et seq.)

23-1-4 **ILLINOIS DEPARTMENT OF PUBLIC HEALTH ADOPTED AND REGULATIONS.** The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health** is hereby adopted by the City. The applicable provisions as they pertain to the Manufactured Home community shall be controlling within the corporate limits.

23-1-5 **NATIONAL SAFETY STANDARDS.** No manufactured home or immobilized manufactured home shall be located in the City unless the unit has the **National Manufactured Housing Construction and Safety Standards** metal seal affixed thereto.

23-1-6 **SKIRTING.** Skirting shall be used to conceal all underpinning, plumbing, and support piers whether on a permanent foundation or otherwise. All skirting shall be installed on all manufactured housing units within **sixty (60) days** of the placement of the unit.

23-1-7 **FIRE EXTINGUISHERS.** All manufactured housing units located in the City shall be equipped with a fire extinguishing apparatus capable of extinguishing all types of fires. Such extinguishers shall be of sufficient size so that they will reasonably protect the manufactured housing units. All fire extinguishers shall be approved by the Fire Chief or his designated representative prior to installation of the manufactured home. **(See 425 ILCS 60/1-60/4)**

23-1-8 **INSPECTION.** 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 City unless it is located in a state-licensed travel trailer park.
(C) **Manufactured Home.** It shall be unlawful to locate a manufactured home or a manufactured home in a state-licensed travel trailer park without written permission of the City Council or the Zoning Board.

23-1-11 **CARBON MONOXIDE ALARM DETECTORS.** Each unit shall be equipped with a carbon monoxide alarm detector as prescribed by state statute. **(See 430 ILCS 135/1 et seq.)**

23-1-12 **SMOKE AND FIRE DETECTORS.** Each unit shall be equipped with smoke and fire detectors as prescribed by state statute.

23-1-13 **OWNER OCCUPIED.** All manufactured housing units shall be used and occupied by the owner or his immediate family as a residence. If the unit is not located in a licensed manufactured home park, then the lot should be owned by the owner-occupant of the manufactured housing unit.

ARTICLE II - IMMOBILIZED MANUFACTURED HOMES

23-2-1 **IMMOBILIZED MANUFACTURED HOMES.** All immobilized manufactured homes located in the City shall be classified as real estate; therefore, it is mandatory for all persons owning, operating, renting, or leasing an existing manufactured home outside a manufactured home park to remove or cause to have removed the wheels or any other transportation device from the manufactured home. The owner or lessor shall permanently fix it to the ground in a manner that conforms to the definition of an immobilized manufactured home in **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code.

23-2-2 **PERMIT - FEE.** All persons seeking to locate or replace a manufactured home or an immobilized manufactured home outside a manufactured home park shall obtain a **Zoning Occupancy Permit** from the City Clerk or Building Inspector. No utility services shall be connected to the unit until the City has issued the appropriate permits. The fee to locate or relocate a manufactured home or immobilized manufactured home shall be **Twenty-Five Dollars (\$25.00)**. (See Zoning Code for districts permitting these uses.)

23-2-3 **LOT SIZE.** The minimum lot size for the location of an immobilized manufactured home unit shall be **eight thousand (8,000) square feet**; provided, however, the lot shall be at least **seventy (70) feet** wide and **one hundred (100) feet** deep. All immobilized manufactured homes shall be located in the City, according to the requirements and restrictions of this Code. No manufactured home shall be located within **fifteen (15) feet** of any lot line, nor closer than **twenty-five (25) feet** of an existing building. They shall not exceed **forty percent (40%) coverage** of the lot unless otherwise provided in the Zoning Code. (See Zoning Code, Section 40-4-23 et seq.)

23-2-4 **CONCRETE PADS.** All immobilized manufactured homes shall conform to the specifications for these units as provided in the definition in **Section 23-1-1**.

23-2-5 **LIMIT OF UNITS.** There shall be **only one (1)** immobilized manufactured home per lot in the City.

ARTICLE III - MANUFACTURED HOME PARKS

DIVISION I - ADMINISTRATION REQUIREMENTS

23-3-1 COMPLIANCE WITH STATUTES, APPLICABILITY OF ARTICLE.

Every manufactured home park hereafter established in the City shall, at a minimum, conform to the requirements of:

(A) The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the City. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the City.

(B) The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the City. The applicable provisions as they pertain to Manufactured Home community shall be controlling within the corporate limits.

(C) **This Code.**

(D) **Zoning Code.**

In case of conflict between any provisions of the above, the more stringent requirement shall prevail.

23-3-2 PERMITTING AND PLANNING A PARK. Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or a license to operate a manufactured home park.

“Construct or operate a manufactured home park”, as used in this Code shall include, but not necessarily be limited to supplying or maintaining common water, sewer, or other utility supplies or services, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **(All plans shall be submitted to the City Council or Plan Commission for approval prior to the granting of a permit.)**

23-3-3 LOCAL GOVERNMENT REQUIREMENTS. A permit does not relieve the applicant from complying with this Code or other ordinances applicable thereto. **(See Zoning Code)**

23-3-4 PERMITS. The Plan Commission or the City Council shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **“Manufactured Home Community Code”**, as approved by the **Illinois Department of Public Health**, the City Council or its designee may issue the proper permit to construct or alter a manufactured home park to the applicant. Permits shall be valid for **one (1) year from date of issue.**

23-3-5 **INSPECTION OF MANUFACTURED HOME PARK.** Upon completion of the proposed construction of a manufactured home park or the proposed alteration of a manufactured home park, the applicant shall notify the City or the designated official in order that an inspection of the complete facilities can be made.

23-3-6 **VIOLATION PROCEEDINGS.** Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor or his representative shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with the statutes, or any rules or regulations promulgated by the City pertaining thereto. The notice shall require the licensee to remove or abate such nuisance, unsanitary or objectionable condition, specified in such notice within **five (5) days** or within a longer period of time as may be allowed by the City Council. If the licensee fails to comply with the terms and conditions of the notice within the time specified or such extended period of time, the Mayor or his representative may revoke or suspend such license.

23-3-7 **INITIAL PERMIT REQUIRED.** Each manufactured home that locates on a lot in a manufactured home park shall secure an initial Building or Zoning Permit from the City. All future locations on the same lot shall be exempt from the fee. **(See Zoning Code)**

23-3-8 - 23-3-9 **RESERVED.**

DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS

23-3-10 **PLAN DOCUMENT.** In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the City a written application and plan documents and such plan documents shall be prepared by a registered engineer or architect licensed to practice in the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the City Clerk to obtain a permit to construct or alter a manufactured home park or an original license to operate a manufactured home park, not previously licensed by the Department. These plans shall include, but not be limited to the design and construction criteria set forth herein. **[If there is a Zoning Administrator then the plans should be filed with that office.]**

23-3-11 **APPLICATION.**

(A) Every applicant shall file with the City Clerk a written application and plan documents for the proposed construction or alteration of a manufactured home park.

(B) The application shall be completed by the applicant and the engineer or architect and shall include:

- (1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of the filing of the application. If the applicant is a corporation, a copy of the certificate of incorporation must be filed with the application.
- (2) The proposed method of lighting the structures and land upon which the manufactured home park is to be located.
- (3) The plot plans of the manufactured home park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities or the proposed alterations in existing facilities.
- (4) An affidavit of the applicant as to the truth of the matters contained in the application shall be attached.
- (5) Each application shall be accompanied by an application fee of **Three Hundred Dollars (\$300.00)** for a permit to construct, or an application fee of **One Hundred Fifty Dollars (\$150.00)** for a permit to alter to increase the size of the park.

23-3-12 **LOCATION.**

(A) Sites selected for manufactured home development shall be well-drained and free from topographical or geological hinderances and from other conditions unfavorable to a proper residential environment. The manufactured home development shall not be located near swamps, wetlands, marshes, or other breeding places of insects, rats, mice or other rodents. When a good, natural drainage is not available, storm water drainage shall be provided and such drainage shall not endanger any water supply or surface watercourse.

(B) The City Council may authorize a site survey to ascertain that the proposed location complies with the above requirements. **(See Flood Plain and Zoning Codes)**

23-3-13 ROADWAYS AND PARKING.

(A) All streets and driveways in every park shall be constructed in compliance with the Subdivision Code in **Chapter 34**.

(B) All streets in parks constructed shall have a minimum right-of-way of **fifty (50) feet** and a minimum road width of **thirty-two (32) feet** for the purpose of this Code, and shall be considered private streets to be maintained by the park owner or operator.

If a manufactured home park has more than **fifty (50) units**, a wider street may be required by the corporate authorities.

(C) Sidewalks and walkways shall be constructed abutting a street in a manufactured home park and shall be a minimum of **four (4) feet** in width; provided, however, there shall be no minimum width requirement for sidewalks for each individual lot. No portion of a manufactured home shall block, in any way, the pedestrian traffic on the walkways.

23-3-14 - 23-3-16 RESERVED.

DIVISION III - GENERALLY

23-3-17 **LOT SIZE.** The minimum lot size for a manufactured home pad shall be **eight thousand (8,000) square feet**, with a minimum frontage of **eighty (80) feet**.

23-3-18 **MISCELLANEOUS RESTRICTIONS.**
(A) No manufactured home unit parked in a manufactured home park shall be immobilized.
(B) Not more than **one (1) manufactured home unit** shall be parked in **one (1)** space.
(C) No travel-trailer shall be permitted in any manufactured home park, unless a special area has been approved for that purpose by the City Council or the Zoning Board.

23-3-19 - 23-3-20 **RESERVED.**

DIVISION IV - FEES

23-3-21 **LICENSE FEE.** The annual business license fee per manufactured home park shall be **One Thousand Dollars (\$1,000.00)**, 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

ARTICLE I - DEFINITIONS

24-1-1 **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 5/1**, entitled **"Title and Definitions"**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City, the provisions thereof shall be controlling within the corporate limits of the City.

ARTICLE II - GENERAL REGULATIONS

24-2-1 **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, Auxiliary Police and Marshals assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic.

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.**

24-2-4 UNAUTHORIZED SIGNS. No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

24-2-5 INTERFERENCE WITH SIGNS OR SIGNALS. It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

24-2-6 ADVERTISING SIGNS. It shall be unlawful to maintain anywhere in the City any sign, signal, marking or device other than a traffic sign or signal authorized by the City Council or the Illinois State Department of Public Works and Buildings, which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal in view of any street or highway, and it shall be unlawful to place or maintain any sign which hides from view any lawful traffic-control device. It shall be unlawful to maintain or operate any flashing or rotating beacon of light in view of any street or highway. **(See 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.

24-2-8 EQUIPMENT ON BICYCLES AND USE OF SIDEWALKS.
(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) No person shall operate a bicycle on a public sidewalk. This paragraph (G) shall not apply to a child operating a bicycle equipped with training wheels when accompanied by an adult.

(H) No person shall operate a skateboard on a public sidewalk.

(I) A parent or guardian who knowingly allows their minor child to violate any provision of this Section shall be subject to the fines described in paragraph (J). It will be assumed that the parent or guardian knowingly allows such violation if any such violation occurs subsequent to receiving written notice of a prior violation.

(J) Any person charged with a violation of this Section shall pay a fine of **Twenty-Five Dollars (\$25.00)** for the first offense and for a similar charge during the same year, a fine of **Seventy-Five Dollars (\$75.00)**. (See **625 ILCS Sec. 5/11-1507**) (Ord. No. 1146; 11-06-07)

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")**

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.

24-3-3 **STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. **(See Schedule "A")**

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 "K")**

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.

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 5/11**, 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, 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 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.

(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.

(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 "L")**

(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.

(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 immediately by the nearest communication, shall result in arrests of the person or persons involved.

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 the City except in the original container and with the seal unbroken. (See 625 ILCS Sec. 5/11-502)

24-4-5 **TRUCKS PROHIBITED ON CERTAIN STREETS.** It shall be unlawful to operate a truck upon any street where truck operation is prohibited by this Code and where such signs of prohibition are posted, except that a truck may be driven on such street for not more than the minimum distance necessary for the purpose of making deliveries or picking up loads. (See Schedule "O")

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED. The Illinois Vehicle Code, **Illinois Compiled Statutes, Section 5/12**, 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, except for the last sentence of **Sections 12-205**, beginning with "the" and ending with "act", 12-605, and 12-605.1.

24-5-2 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.

24-5-3 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.

24-5-4 EXCESSIVE NOISE - SQUEALING TIRES. No operator of a motor vehicle shall accelerate the engine thereof when shifting the gears of such vehicle in such a manner as to cause the rear wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise.

24-5-5 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.

24-5-6 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.

24-5-7 EXCESSIVE NOISE WHILE DRIVING. No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

ARTICLE VI - PARKING RULES

24-6-1 **TIME LIMIT PARKING.** It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

24-6-2 **PARKING FOR SALE OR REPAIR.** No person shall park a vehicle upon any street for the purpose of:

- (A) displaying such vehicle for sale; or
- (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary.

24-6-3 **STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.**

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

- (1) **Stop, Stand or Park a Vehicle:**
 - (a) On the roadway site 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.
- (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) **Truck Parking Prohibited.** No Second Division vehicle licensed for a "F" classification or higher shall be parked on any street, alley or any public parking lot not so designated for public parking of vehicles described herein in the City except temporary parking for loading and unloading purposes. Vehicle described in this paragraph shall include either the tractor or trailer of such unit. **(Ord. No. 839; 02-20-96) (See 625 ILCS Sec. 5/3-815)**

24-6-4 PARKING FOR THE HANDICAPPED.

(A) **Designated Parking.** Certain parking spaces within the confines of the business district will 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 to that effect, will 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, 625 ILCS Sec. 5/11-1301.2. (Ord. No. 926; 08-18-98)**

(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.

(D) **Application for City Handicapped Card.** The owner of any vehicle who wishes to obtain a City Handicapped Card shall apply to the Chief of Police or his designate and cause must be shown for the need for the issuance of a handicapped parking

permit. Each and every vehicle used for the transportation of handicapped persons shall require a separate City Handicapped Registration Card. City Handicapped Registration Cards will be issued to a person and be registered to a vehicle and said registration will not be transferable to any other person or vehicle. A City Handicapped Registration Card may be limited as to duration of use by the Chief of Police of the City.

(E) **Transfer of City Handicapped Registration.** It will be the responsibility of the registered owner of a City Handicapped Card to apply at the Police Department whenever the registration is needed to be transferred from the issued vehicle to another vehicle. There shall be no charge for the transfer.

(F) **Lost or Stolen Cards.** Upon the loss or theft of an issued City Handicapped Registration Card, application may be made at the Police Department for replacement. No fee will be charged for the replacement of the Registration Card.

(G) **Placement.** Illinois Handicapped Registration Plates shall be attached securely to the vehicle in accordance with the provisions of the Illinois Vehicle Code. City Handicapped Registration Cards must be firmly attached to the inside of the rear window of a vehicle in a position that would normally make that card visible from the street and will not cause obstruction to the safe operation of the vehicle.

(H) **Fees.** A registration fee of **One Dollar (\$1.00)** will be charged for each City Handicapped Registration Card issued and said fees are payable at the time of issuance. The Chief of Police will see that an accurate record of such registration is kept and any funds deposited with the Clerk of the City as soon as possible.

(I) **Private Parking Facility.** Nothing herein shall be construed as applying this provision to any privately-owned or maintained parking facility, whether that facility is open to public use or not.

(J) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency or a City Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance with departmental policies and in accordance with **Section 5/11-1301, 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 **Fifty Dollars (\$50.00)**. 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. **(Ord. No. 926; 08-18-98)**

(K) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "O"**. **(Ord. No. 638A; 04-19-88)**

24-6-5 LOAD LIMITS.

(A) **Established.** There is hereby established "gross load limits" on certain City streets. The term "gross load limit" shall mean the total weight of a vehicle and the load it is carrying. The specified streets and the load limits are hereby listed in **Schedule "J"**.

(B) **Exceptions.** This Chapter shall not include a vehicle making actual deliveries to customers or pickup trucks, trucks operated by the City maintenance and repairs on the street or the operation of a vehicle owned by the U.S. government or State of Illinois while on lawful business of these agencies.

24-6-6 STREET CLEANING AND SNOW ROUTES.

(A) It shall be unlawful to park any vehicle on any public street or portion thereof in the City at any time when such street is being cleaned or snow removed. Signs indicating such cleaning or snow removal shall be posted before such work is done.

(B) Whenever there is an accumulation of **two (2) inches** or more of snow on the streets, as listed in **Schedule "M"**, it shall be unlawful to park or allow any vehicle to remain parked or standing on any street or part thereof in the City designated as a "snow route", and until it has stopped snowing and the street cleared of snow for the entire width of the street as traveled. **(Ord. No. 687A; 01-16-90)**

24-6-7 CONSTRUCTION EQUIPMENT. It shall be unlawful for anyone to permit construction equipment including but not limited to motor vehicles used to transport construction equipment to remain on the City streets from **6:00 P.M. to 6:00 A.M.** Provided further that from **6:00 A.M. to 6:00 P.M.** the prohibited vehicles may park on the City streets only during that period in which they are being utilized in that immediate area for construction purposes.

Any such vehicle or piece of equipment may be removed by the Chief of Police and in each case, storage and removal cost shall constitute a lien on the property. **(Ord. No. 609A; 02-17-87)**

24-6-8 TOWING CARS AWAY. The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car, boat, trailer, or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle; or any vehicle which has been parked in any public street or other public place for a period of **twenty-four (24) hours.**

Vehicles towed away shall be stored on any City property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the City in removing and storing such vehicle(s).

24-6-9 PARKING VIOLATIONS. Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area, or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the City **Ten Dollars (\$10.00)** for each such offense. Further provided that the fine shall be **Twenty Dollars (\$20.00)** if paid after **ten (10) days** from the issuance of the ticket. Violators of paragraph **24-6-3(C)** above shall be fined **One Hundred Dollars (\$100.00)** for each violation,

provided further that for each day the vehicle is in violation the violators may be fined an additional **One Hundred Dollars (\$100.00)**. (Ord. No. 839; 02-20-96) Such payment may be made at the City Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **ten (10) days**; provided however, that this section, with respect to the time elements, shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where Police Department or Fire Department apparatus or other emergency equipment is kept or housed or so as to block an emergency entrance in a hospital. Nor shall this section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department.

The following form of ticket may be used:

LICENSE NO. _____ DATE _____ HOURS _____

CHARGE: Illegal parking in violation of Article VI of the Municipal Code of Breese, Illinois, by:

- Parking in prohibited area.
- Double Parking.
- Blocking an Alley.
- Blocking a Driveway.

The operator of the above described vehicle may pay **Ten Dollars (\$10.00)** at the office of the Breese Police Department, or if after **ten (10) days**, the operator may pay the sum of **Twenty Dollars (\$20.00)** at the office of the Breese Police Department, or may appear in Circuit Court at _____ (date and time) for trial.

This ticket is issued as a courtesy, in lieu of an arrest. If the operator does not settle this claim or appear for trial, such further action will be taken as the law allows.

Police Department, City of Breese
OFFICER _____

Received **Ten Dollars (\$10.00)** for the City of Breese.

DATE _____ SIGNED _____
(Ord. No. 768; 03-16-93) City Clerk

24-6-10 PRIMA FACIE PROOF. The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

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 Municipality.
(B) The provisions of this Section shall not apply to vehicles disposed of or sold at public sale under subsection (k) of **625 ILCS 5/4-107** of the Illinois Vehicle Code. **(625 ILCS 5/4-211)**

24-7-14 LIABILITY OF LAW ENFORCEMENT OFFICERS.
(A) A law enforcement officer or agency, a department of municipal government designated under **625 ILCS 5/4-212.1** or its officers or employees, or a towing service owner, operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Article.
(B) A towing service, and any of its officers or employees, that removes or tows a vehicle as a result of being directed to do so by a law enforcement officer or agency or a department of municipal government or its officers or employees shall not be held to answer or

be liable for injury to, loss of, or damages to any real or personal property that occurs in the course of the removal or towing of a vehicle or its contents on a limited access highway in a designated Incident Management Program that uses fast lane clearance techniques as defined by the Department of Transportation. **(625 ILCS 5/4-213)**

24-7-15 **VIOLATIONS OF ARTICLE.**

(A) Any person who violates **Section 24-7-1** of this Article or who aids and abets in that violation:

- (1) shall be subject to a mandatory fine of **Two Hundred Dollars (\$200.00)**; and
- (2) shall be required by the court to make a disposition on the abandoned or unclaimed vehicle and pay all towing, storage, and processing charges and collection costs pursuant to **Section 24-7-3(A) and (E)**.

(B) When a vehicle is abandoned, it shall be presumed that the last registered owner is responsible for the abandonment and shall be liable for all towing, storage, and processing charges and collection costs, less any amounts realized in the disposal of the vehicle. The last registered owner's liability for storage fees may not exceed a maximum of **thirty (30) days'** storage fees.

The presumption established under this paragraph may be rebutted by a showing that, prior to the time of the tow:

- (1) a report of vehicle theft was filed with respect to the vehicle; or
- (2) the vehicle was sold or transferred and the last registered owner provides the towing service with the correct identity and address of the new owner at the time of the sale or transfer.

If the presumption established under this Section is rebutted, the person responsible for theft of the vehicle or to whom the vehicle was sold or transferred is liable for all towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-214)**

ARTICLE VIII – NON-HIGHWAY VEHICLES

24-8-1 **GENERALLY.** The following “Non-Highway Vehicles” as defined in **625 ILCS 5/11-1426.1**: “All-Terrain Vehicles” as defined in **625 ILCS 5/1-101.8**; and “Golf Carts” as defined in **625 ILCS 5/1-123.9**, shall be allowed on City streets under the conditions as stated herein.

24-8-2 **DEFINITIONS.**

(A) “Golf Cart”, as defined herein, 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) “All-Terrain Vehicle” shall mean any motorized, off-highway device designed to travel primarily off-highway, **fifty (50) inches** or less in width, having a manufacturer’s dry weight of **one thousand five hundred (1,500) pounds** or less, traveling on **three (3)** or more non-highway tires, designed with a seat or saddle for operator use and handlebars or steering wheel for steering control, except equipment such as lawn mowers.

(C) “City Streets” means any of the streets within the boundaries of the City.

24-8-3 **REQUIREMENTS.** All persons wishing to operate an allowed non-highway vehicle on the City streets must ensure compliance with the following requirements:

(A) Proof of current mandatory liability insurance as required by Article VI of Chapter 7 of the Illinois Vehicle Code.

(B) Must have the vehicle certified with the City by inspection by the Police Chief or designated representative.

(C) Must comply with the published “Rules Concerning Alternate Transportation for the City of Breese” as periodically updated.

(D) Must display City decal on the rear of the vehicle.

(E) Must have a current, valid Illinois driver’s license.

(F) Golf carts must be equipped as follows:

- (1) Horn;
- (2) Brakes and brake lights;
- (3) Turn signals;
- (4) A steering wheel apparatus;
- (5) Tires;
- (6) Rearview mirror;
- (7) Approved “Slow Moving Vehicle” emblem on the rear of the vehicle (**625 ILCS 5/12-709**);
- (8) Headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front which must illuminate when in operation;
- (9) Tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear which must be illuminated when in operation;
- (10) Red reflectorized warning devices in the front and rear;

- (11) Any additional requirements which may be amended to **65 ILCS 5/11-1426.1** or the Illinois Motor Vehicle Code.
 - (12) Seat belts for each passenger and the driver of the vehicle.
 - (G) All-Terrain Vehicles must be equipped as follows:
 - (1) Brakes and brake lights;
 - (2) Turn signals on the front and rear;
 - (3) A steering wheel apparatus;
 - (4) Tires;
 - (5) Rearview mirror;
 - (6) Approved "Slow Moving Vehicle" emblem on the rear of the vehicle (**625 ILCS 5/12-709**);
 - (7) Headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front which must illuminate when in operation;
 - (8) Tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear which must be illuminated when in operation;
 - (9) Red reflectorized warning devices in the front and rear;
 - (10) Any additional requirements which may be amended to **65 ILCS 5/11-1426.1** or the Illinois Motor Vehicle Code.
 - (11) Seat belts for each passenger and the driver of the vehicle.
 - (H) All non-highway vehicles operated on municipal streets must have headlamps illuminated at all times.
 - (I) Must obey all traffic laws of the State of Illinois and the City of Breese.
 - (J) Must be operated by a person **twenty-one (21) years** of age or older.
 - (K) Must be operated only on City streets, except where prohibited.
 - (L) May not be operated on US Highway 50, Germantown Road, Jamestown Road/Walnut Street and Mater Dei Drive, except at specifically designated crossing points.
 - (M) Must not be operated in excess of posted speed limit and, may not be operated at a speed in excess of **twenty-five (25) miles per hour**.
 - (N) May only be operated between sunrise and **11:00 P.M.**
 - (O) A person operating or who is in actual physical control of an allowed non-highway vehicle, as described herein, on a roadway shall not operate such vehicle while under the influence and shall be subject to Section 11-500 through 11-502 of the Illinois Compiled Statutes (**625 ILCS 5/11-500 - 11-502**).
 - (P) Allowed non-highway vehicles shall not be operated on sidewalks or in City Parks, other than parking areas.
 - (Q) Allowed non-highway vehicles may not be operated on streets and highways and roads under the jurisdiction of the Illinois Department of Transportation (US Highway 50) or the County Highway Department (North Walnut Street and Germantown Road) except to cross at designated streets.
 - (R) All non-highway vehicles permitted on City streets shall have headlights illuminated at all times while being operated on City streets.
 - (S) Each driver and passenger of the non-highway vehicle shall be required to wear a properly adjusted and fastened seat safety belt.
- (Ord. No. 1261; 09-18-12)**

24-8-4 **PERMITS.**

(A) No person shall operate an allowed non-highway vehicle without first obtaining a permit from the office of the Police Chief as provided herein. Permits shall be granted for a period of **one (1) year** and renewed annually. The cost of the permit is **Thirty-Five Dollars (\$35.00)**. Insurance coverage is to be verified, by the Police Department, to be in effect when obtaining and renewing a permit.

(B) Every application for a permit shall be made on a form supplied by the City and shall contain the following information:

- (1) Name and address of applicant;
- (2) Name of liability insurance carrier;
- (3) The serial number, make, model and description of the allowed non-highway vehicle;
- (4) Signed Waiver of Liability by applicant releasing the City and agreeing to indemnify and hold the City harmless from any and all future claims resulting from the operation of their allowed non-highway vehicle on the City streets;
- (5) Photocopy of applicable liability insurance coverage card specifically for the vehicle to be operated pursuant to the permit;
- (6) Such other information as the City may require.

(C) No permit shall be granted unless the following conditions are met:

- (1) The vehicle must be inspected by the Chief of Police (or designee) to insure that the vehicle is safe to operate on City streets and is in compliance with this Article and with the State of Illinois Motor Vehicle Code;
- (2) A physically handicapped applicant must submit a certificate signed by a physician, certifying that the applicant is able to safely operate an allowed non-highway vehicle on City streets;
- (3) The applicant must provide evidence of insurance in compliance with the provisions of the Illinois Statutes regarding minimum liability insurance for passenger motor vehicles to be operated on the roads of the State of Illinois.

(D) The City may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any provision of this Article or there is evidence that permittee cannot safely operate an allowed non-highway vehicle on the designated roadways.

24-8-5 **VIOLATIONS.** Any person who violates any provision of this Article shall be guilty of a petty misdemeanor and shall be punished by a fine of **Seventy-Five Dollars (\$75.00)**. Any second or subsequent offense shall result in the revocation of the permit for a period of not less than **three (3)** nor more than **five (5) years**. To the extent that any violation of this Article also constitutes a violation of a criminal statute of the State of Illinois, then the violator shall also be subject to criminal prosecution.

24-8-6 **MISCELLANEOUS.**

(A) In the event that a court of competent jurisdiction declares any particular provision of this Article to be invalid or unenforceable, the remaining provisions of this Article shall be construed to be valid and enforceable. The invalidity of any part of this Article shall not affect any part or parts thereof.

(B) This Article shall be in full force and effect from and after passage and approval, as provided by law.

(C) Any Article, or portion thereof, of the City which is contrary to this Article shall be deemed to be repealed.

(Ord. No. 1241; 10-04-11)

SCHEDULE "A"

THROUGH STREET AND STOP INTERSECTIONS

In accordance with **Sections 24-3-1** and **24-3-3**, the following streets shall be designed as through and stop intersections:

I. STOP SIGNS

<u>THROUGH STREETS</u>	<u>STOP STREETS - DIRECTION</u>
N. 1 st St.	N. Cherry (Both)
N. 2 nd St.	N. Elm (Both)
N. 2 nd St.	N. Pine (#1018)
N. 2 nd St.	N. Plum (#1018)
N. 4 th St.	N. Cherry (Both)
N. 4 th St.	N. Chestnut (Both)
N. 4 th St.	N. Clinton (Both)
N. 4 th St.	Deeben (North Bd.)
N. 4 th St.	N. Elm (South Bd.)
N. 4 th St.	Gerdes (Both)
N. 4 th St.	Haag (North Bd.)
N. 4 th St.	N. Main (Both)
N. 4 th St.	Mason Dr. (South Bd.) (#910)
N. 4 th St.	Memorial Dr. (South Bd.) (#911)
N. 4 th St.	Mine (North Bd.)
N. 4 th St.	Oak (North Bd.)
N. 4 th St.	N. Pine (North Bd.)
N. 4 th St.	N. Plum (Both)
S. 4 th St.	S. Cherry (Both)
S. 4 th St.	S. Clinton (Both)
N. 7 th St.	Clinton (Both)
N. 7 th St.	N. Plum (Both)
N. 12 th St.	Walnut St. (East Bd.) (#940)
S. Broadway St.	Chestnut St. (North Bd.) (#790)
S. Broadway St.	Elm St. (North Bd.) (#790)
S. Broadway St.	Walnut St. (Both) (#964)
N. Cherry St.	N. 5 th St. (Both)
N. Cherry St.	N. 6 th St. (Both)
N. Cherry St.	N. 8 th St. (Both)
N. Cherry St.	N. 9 th St. (Both)
N. Cherry St.	N. 12 th St. (West Bd.) (#965)
Chestnut St.	N. 7 th St. (Both) (#899)
Clinton St.	N. 6 th St. (Both) (#1139)
N. Clinton St.	N. 1 st St. (Both)
N. Clinton St.	N. 3 rd St. (Both)
N. Clinton St.	N. 9 th St. (Both) (#1275)
S. Clinton St.	S. 2 nd St. (Both) (#1276)
Ellwood	N. 11th (West Bd.)
Ellwood	N. 12th (West Bd.)
Germantown Road	N. 1st (West Bd.)
Germantown Road	N. 2nd (Both)
Germantown Road	N. 3rd (Both)
Germantown Road	S. 4th St. (East Bd.)
Germantown Road	S. Carlyle Rd. (East Bd.)
Holy Cross Ln.	Lincoln Dr. (North Bd.) (#1194)
Holy Cross Ln.	Progress Dr. (Both) (#1310)
Jamestown Rd.	Regency Ln. (East Bd.) (#1055)
Koch Ln.	Foxtail Dr. (West Bd.) (#1059)
Koch Ln.	Prairie Dr. (West Bd.) (#1059)

THROUGH STREETS

Koch Rd.
 Koch Rd.
 N. Main St.
 S. Main St.
 S. Main St.
 S. Main St.
 S. Main St.
 Mater Dei Dr.
 Meadowlark Ln.
 N. Mine St.
 Pine St.
 N. Pine St.
 Plum St.
 N. Plum St.
 N. Plum St.
 N. Plum St.
 N. Plum St.
 S. Plum St.
 St. James Ln.
 St. Vincent's Estates
 Voss Clare Ln.
 N. Walnut St.
 S. Walnut St.
 Walnut St.

STOP STREETS - DIRECTION

Nobs Rd. (West Bd.) (#905)
 Truman Dr. (East Bd.) (#906)
 N. 1st St. (Both)
 N. 3rd St. (Both)
 N. 5th St. (Both)
 N. 6th St. (Both)
 N. 7th St. (Both) (#901)
 N. 8th St. (Both) (#902)
 N. 9th St. (Both)
 N. Broadway (Both)
 S. 1st St. (Both) (#1228)
 S. 2nd (Both)
 S. 4th (Both)
 S. Broadway (Both)
 N. 5th (Both)
 N. 6th (Both)
 N. 7th (West Bd.)
 N. 8th (West Bd.)
 9th St. (Mater Dei Parking) (#1140)
 10th St. (Lot East Bd.) (#1140)
 Voss Clare (Both) (#1122)
 N. 1st St. (East Bd.) (#1193)
 S. 4th (Both) (#764)
 N. 1st (Both)
 10th St. (#1140)
 N. 1st (Both)
 N. 5th St. (Both) (#1229)
 N. 8th St. (Both) (#1074)
 N. 9th (Both) (#686A)
 S. 4th (Both)
 Holy Cross Ln. (#956)
 Jamestown Rd. (#957)
 Elm St. (Both) (#752)
 Lakeview Dr. (South Bd.) (#1071)
 Meadowlark Dr. (Both) (#994)
 Otke Ln. (South Bd.) (#1209)
 Willow Creek (Both) (#995)
 N. 1st St. (Both) (#1248)
 N. 3rd St. (Both) (#1249)
 N. 5th (Both)
 N. 6th (Both)
 N. 7th (Both)
 N. 8th (Both)
 N. 9th (East Bd.)
 N. 10th (East Bd.)
 N. 11th (East Bd.)
 Access Rd. "A" (West Bd.)
 Fieldcrest Place (West Bd.) (#1208)
 Holy Cross Lane (Both)
 S. 1st St. (Both) (#1227)
 S. 4th (East Bd.)
 S. 5th (East Bd.)
 S. 6th (East Bd.)
 S. 7th (East Bd.)
 Julia Drive (East Bd.)
 Pine Tree Dr. (East Bd.)
 Voss Clare Ln. (West Bd.) (#752)

II.

THREE-WAY STOPS

South 3rd	and	Main St. (Stop Light)
N. Cherry (Both)	and	N. 3rd (East Bd.)

III.

FOUR-WAY STOPS

N. 1st	and	N. Elm
N. 1st	and	Haag
N. 2nd	and	N. Clinton
N. 2nd	and	N. Main
N. 2 nd	and	Walnut St. (#1025)
N. 4th (Flashing Light)	and	Germantown Road
N. 4th (Flashing Light)	and	N. Walnut
N. 7th	and	N. Elm
N. 7th	and	Gerdes
N. 10th	and	N. Clinton
N. 10th	and	N. Main
N. Cherry	and	N. 2 nd St. (#1153)
N. Cherry	and	N. 11th
N. Cherry	and	N. 10th
N. Cherry	and	N. 7 th
Pioneer Ct.	and	Elm St. (#1070)
Vossclare Ln.	and	N. Elm (#834)
S. Walnut	and	S. 2nd

SCHEDULE "D"

NO PARKING ZONES

In accordance with the provisions of Section 24-6-3, the following streets and alleys are hereby designated as "No Parking" zones, to-wit:

I.

STREET - SIDE(S)		LOCATION
N. 2nd St. (North)	From	N. Clinton St. west 100 feet (in front of St. Dominics)
N. 3rd St. (South)	From	Clinton St. and Cherry St.
N. 3rd St. (South)	From	2:30 P.M. to 3:30 P.M. - Monday through Friday - except for school buses (#834)
4th St. (FAS 1780) (South)	From	Walnut St. Centerline east 220 feet (#658A)
4th St. (FAS 1780) (Both)	From	Gerdes St. east to City limits (#658A)
N. 4th St. (South)	From	N. Main St. east 70 ft. (#36A)
N. 4th St. (Both)	From	East to West City Limits (#164A)
Access Rd. "A" (Both)		Entire Length
Cherry St. (East)	From	N. 10th St. north 300 feet (#754)
Cherry St. (East)	From	N. 4th St. south to a point 10 feet to a point 120 south (#439A)
Chestnut St. (East)	From	N. 4th St. to a sign 25 feet north of alley way (#501A)
N. Chestnut St. (West)	From	N. 4 th St. south a distance of 52 feet (on the west side of N. Chestnut St.) (#1199)
Clinton St. (East)	From	2nd St. north and south 30 feet (#193A)
N. Clinton St. (West)	From	N. 4th St. south 40 ft. (#439A)
County Highway #7 (Both)	From	U.S. Rt. 50 south 300 feet (#518A)
Mater Dei Dr. (Both)	From	U.S. Route 50 north 200 feet (#518A)
Main St. (West)	From	American Legion Building fire zone 50 feet both ways (#177A)
Main St. (Both)	From	4th St. north to south 30 feet (#164A)
N. Main St. (West)	From	U.S. Rt. 50 south 40 ft. (#527A)
N. Main St. (West)	From	N. 2nd St. south 35 feet (#36A)
N. Main St. (West)	From	N. 2nd St. north 25 feet (#36A)
N. Main St. (West)	From	N. 3rd St. south 35 feet (#36A)
N. Main St. (East)	From	N. 2nd St. north 50 feet (#36A)
Mine St. (Both)	From	N. 4th St. south (#439A)

NO PARKING ZONES (CONT'D.)

<u>I. STREET - SIDE(S)</u>	<u>LOCATION</u>
S. Pine St. (West)	From South 4th St. south 200 feet (#680)
N. Plum St. (East)	Between N. 9 th St. and N. 10 th St. (on the east side of N. Plum St.) (#1212)
U.S. Route 50 (Both)	From W. City limits to a point 300 feet east of County Highway #7 (#518A)
Old U.S. Route 50 (4 th St.)	From Along both sides from 185 feet west of Walnut St. to 569 feet west of Mater Dei/Germantown Rd. (#1005)
N. Walnut St. (East)	From 4th St. centerline North 220 feet (#658A)
N. Walnut St. (West)	From 4th St. centerline north 90 ft (#658)
N. Walnut St. (Both)	From N. 4th St. to the (east - west) alley in Block 6 of Stark's Addition (#406A)
N. Walnut St. (Both)	From N. City limits to a point 1150 feet south of Rt. 409 (#477A)
N. Walnut St. (East)	From Knights of Columbus Hall fire zone - 50 ft. both ways (#177A)
S. Walnut St. (North)	From 10 feet in alley as posted

II. ALLEYS:

On the North side of alley between N. 1st St. and N. 2nd St. and between N. Walnut St. and N. Clinton St. **(#322A; 06-02-70)**

On the North side of alley between N. 2nd St. and N. 3rd St. between N. Clinton St. and N. Cherry St. **(#322A; 06-02-70)**

In the alleyway running parallel with 3rd St. and 4th St. and between N. Main and N. Walnut. **(Ord. #448A)**

In the alley between N. 2nd St., and N. 3rd St. to a point north, approximately forty-five feet (45') in front of the City Ambulance Garage.

In the alley located in Block six (6) of Stark's Addition. **(Ord. #655A)**

In the alley located in Block twenty-two (22) of Original Town of Breese, including the entrance area on Walnut St. and Main St. **(Ord. #656A)**

In the alley located between N. 2nd St. and N. 3rd St. from N. Main St. to N. Walnut St. **(Ord. #689A; 03-06-90)**

SCHEDULE "E"

PARALLEL PARKING ONLY ZONES

In accordance with **Section 24-6-3**, the following streets are hereby designated as "Parallel Parking Zones", to wit:

I. STREETS

STREET--SIDE

LOCATION

N. 2nd Street (Both)	Between	Walnut St. and Clinton St. (#132A)
N. 2nd Street (North) (#321A)	Between	N. Clinton St. and N. Cherry St.
N. 3rd Street (Both)	Between	Main St. and Cherry St. (#132A)
5th Street (Both)	Between	Main St. and Chestnut St. (#164A)
N. 6th Street (North)	Between	N. Clinton St. and Main St.
Cherry Street (Both)	Between	N. 2nd St. and N. 4th St. (#127A)
Cherry Street (Both)	Between	N. 4th St. and N. 2nd St. (#132A)
Clinton St. (Both)	Between	N. 4th St. and S. 4th St. (#132A)
N. Clinton St. (Both)	Between	N. 6th St. to Alley North
Main St. (Both)	Between	N. 4th St. and N. 7th St. (#127A)
Main Street (Both)	Between	7th St. and S. 4th St. (#132A)
Walnut St. (Both)	Between	N. 4th St. and N. 5th St. (#164A)
345 N. Walnut St.		

Otherwise then designated by painted stripes on concrete pavement on the north side of North 2nd Street parallel with the curb and on the south side of North 2nd Street between North Main Street and North Clinton Street diagonal with the curb. (**#57A; 02-04-46**)

Any truck or other vehicle with an overall length of more than seventeen feet (17') on any street designated for diagonal parking by painted stripes on concrete. (**#36A; 04-07-42**)

Otherwise than designated by painted stripes on concrete, on the West side of North Main Street (diagonal) and on the East side of North Main Street (parallel) between North Broadway and North 4th Streets. (**#36A; 04-07-42**)

SCHEDULE "F"

SAFETY ZONES

In accordance with the provisions of **Sec. 24-6-3** of this Chapter, the following areas are established as safety zones:

From the alley crossing between North 4th Street and North 3rd Street on Clinton Street to the corner of North 2nd Street and Clinton Street, and from the center of the block between North Main Street and Clinton Street on 3rd Street to the corner of North 3rd and Cherry Street. (**#78A; 03-01-48**)

SCHEDULE "G"

TRAFFIC CONTROL SIGNALS

SCHEDULE "H"

SCHOOL TRAFFIC CONTROL SIGNALS

In accordance with the provisions of **Section 24-4-1** and the **III. Comp. Stat., Ch. 625; Art. III, Sec. 5/11-301**; the following intersections shall be designated as school stop intersections, between the hours of **8:00 A.M.** through **5:00 P.M.** during the months that schools are open:

THROUGH ST.

N. 4th St. (Old Rt. 50)
N. 7th St.

STOP STREET

N. Clinton (Both)
Walnut St. (Both) (**#588A**)

SCHEDULE "I"

ONE-WAY STREETS AND ALLEYS

In accordance with **Section 24-3-2**, the following streets are designated as One-Way Streets or Alleys:

STREET--LOCATION

N. 8th St. (West Bd.)
(#327A)
N. Elm St. (South Bd.)

LOCATION

Between Walnut St. and Chestnut St.
Between N. 4th St. and N. 3rd St.

SCHEDULE "J"

LOAD LIMIT STREETS

In accordance with the provisions of **Section 24-6-5**, the following streets are designated as Load Limit streets, to wit:

SCHEDULE "K"

YIELD RIGHT-OF-WAY INTERSECTIONS

In accordance with **Section 24-3-4**, the following intersections are designated as Yield Right-of-Way intersections:

YIELD

THROUGH STREETS

YIELD STREETS

S. 3rd	at	S. Chestnut (Both)
S. 3rd	at	S. Plum (Both)
N. 6th	at	N. Chestnut (Both)
10th	at	Elm St. (Both)
N. 12th St.	at	N. Cherry (South Bd.)
N. Cherry	at	N. 12th (West Bd.)
N. Cherry	at	Broadway (Both)
S. Cherry	at	S. 1st (Both)
S. Cherry	at	S. 3rd (Both)
S. Cherry	at	S. 5th (Both)
S. Cherry	at	S. Broadway (Both)
N. Chestnut	at	N. 2nd (Both)
N. Chestnut St.	at	N. 3 rd St. (Both) (#1064)
N. Clinton	at	N. 5th (Both)
N. Clinton	at	N. 8 th St. (Both) (#1084)
N. Clinton	at	N. Broadway (Both)
S. Clinton	at	S. 1st (Both)
S. Clinton	at	S. 3rd (Both)
S. Clinton	at	S. Broadway (Both)
N. Elm	at	N. 3rd (Both)
N. Elm	at	N. 6th (Both)
N. Elm	at	N. 8th (Both)
Elm St.	at	5th (Both) (#724A)
Haag St.	at	N. 2nd St. (Both)
S. Main	at	S. 5th St. (Both)
S. Main	at	S. 6th St. (Both)
N. Pine	at	N. 3rd (Both)
N. Plum	at	N. 6th (Both)
N. Walnut	at	N. Broadway (East Bd.)
S. Walnut	at	S. Broadway (Both)

SCHEDULE "L"

SPEED LIMITS

In accordance with **Section 24-4-2(F)**, the following are hereby established as speed zones:

<u>STREET--SPEED LIMIT</u>	<u>LOCATION</u>
N. 8th St. (15 MPH)	From Walnut St. to Chestnut St. (#782)
Breese Germantown Rd.	From 4 th St. (Old Rte. 50) south to City limit line (#961)
S. Broadway (15 MPH)	From Walnut St. to East end of street. (#695A)
Holy Cross Ln. (35 MPH)	From West City limits to East City limits (#925)
Koch Ln. (25 MPH)	From CSX Railroad north to the North City limits (#1069)

SCHEDULE "M"

SNOW ROUTES

In accordance with the provisions of **Section 24-6-6** the following are hereby designated and "Snow Routes" to-wit:

<u>STREET</u>	<u>LOCATION OR LIMITS</u>
N. 2nd St.	From Cherry St. to Walnut St.
Clinton St.	From Railroad to N. 4th St.
Main St.	From S. 4th St. to N. 10th St.

SCHEDULE "O"

HANDICAPPED ZONE

In accordance with the provision of **Section 24-6-4(K)**, the following streets are established as handicapped parking areas:

Two parking spaces on North Second Street, North side, immediately west of St. Dominic's Church

One (1) parking space on North Cherry Street approximately forty-five (45) feet North of North Second Street on West Side of North Cherry Street.

One (1) parking space on the West side of North Main Street at a location 57 feet North of the intersection of North Broadway and North Main Street.

Two (2) parking spaces on the East side of North Main Street at a location commencing 34 feet North of the intersection of North Second Street and North Main Street extending approximately 40 feet. Hours as posted on sign.

One (1) parking space on North Second Street on the North Side located 20 feet East of the intersection of North Clinton Street. **(Ord. No. 638A; 04-19-88)**

A parking space behind the Breese Public Library. **(Ord. No. 774; 07-06-93)**

The southwest corner of N. 2nd St. and Clinton St. at the first stop west of the stop sign in the eastbound lane is designated for handicap parking. **(Ord. No. 900; 10-16-97)**

SCHEDULE "P"

LIMITED PARKING

In accordance with the provisions of **Section 24-6-3**, the following streets are hereby designated as "Limited Parking Areas", to wit:

On those days in which children are attending grade school in the City of Breese from **7:00 A.M. to 3:30 P.M.** on Cherry Street from Highway #50 (4th Street) South One and One Half Blocks. **(Ord. No. 512A)**

LIMITED PARKING (CONT'D.)

Between the hours of **8 A.M.** to **5 P.M.** parking on the south side of North Second Street shall be limited to a period of two hours on the first half block of North Second Street just east of Main Street. **(Ord. No. 572A)**

More than five (5) minutes on the North Side of North 2nd Street between North Main Street and North Clinton Street, a distance of approximately fifty-two feet (52'), between signs.

North side of North 2nd Street within two (2) parking spaces immediately in front of the entrance to the U.S. Federal building for over five (5) minutes. **(Ord. No. 193A)**

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. **(See 740 ILCS 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this City from declaring what shall be nuisances, and abating them within the City limits.

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the City if such use, keeping or maintaining shall be dangerous or detrimental to health.

25-1-3 NOTICE TO ABATE. Whenever the Superintendent, Mayor or Police Chief finds that a nuisance exists, he shall direct the City Clerk to mail (certified) to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) The date by which abatement must be completed;
- (E) The date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (F) A statement that the responsible party has a right to appeal the abatement order to the City Council.
- (G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this City will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-4 HEARING. Any person ordered to abate a nuisance may have a hearing with the Police Chief or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the City Clerk within the time stated in the

NUISANCES 25-1-5

notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Police Chief or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

25-1-5 **APPEAL.** Any party aggrieved by the decision of the Police Chief may appeal to the City Council. Such appeal shall be taken by filing with the City Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the City Council at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

25-1-6 **ABATEMENT BY CITY.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this City may perform the required action to abate. Any City official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the City Clerk who shall pay such expenses on behalf of this City. **(See 65 ILCS 5/11-60-2)**

25-1-7 **FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The City shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

(See 65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)

ARTICLE II - WEEDS

25-2-1 **DEFINITION.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Rag Weed (giant), Rag Weed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, Johnson Grass, grass and all other noxious weeds as defined by the statutes of the State of Illinois.

25-2-2 **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the City. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **seventeen (17) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant.

25-2-6 **LIEN.** Charges for such weed or grass removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-2-7 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property.

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City after the lien is in effect for **sixty (60) days.**

(See 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.

(See 65 ILCS 5/11-20-13 and 720 ILCS 5/47-10)

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 **DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

“INOPERABLE MOTOR VEHICLES” shall mean any motor vehicle which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. “Inoperable Motor Vehicle” shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

25-4-2 **DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

25-4-3 **NOTICE TO OWNER.** The Police Chief or a designated representative shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Chief or a designated representative may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof.

25-4-4 **EXCLUSIONS.** Nothing in this Article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

(See 65 ILCS 5/11-40-3)

ARTICLE V - 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.

CHAPTER 27

OFFENSES

ARTICLE I - DEFINITIONS

27-1-1 **MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-16; 2-19 and 2-20**, as approved, adopted and amended are hereby adopted by the City, as fully as if set out herein. **(See 65 ILCS Sec. 5/1-3-2)**

27-1-2 **CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the City; the provisions thereof shall be controlling within the corporate limits of the City; provided, however, the penalties as provided by this Code shall apply. **(See 65 ILCS Sec. 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 **DISTURBING 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 Sec. 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 Sec. 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 Sec. 5/11-5-2)**

27-2-4 **UNLAWFUL ASSEMBLY.** It shall be illegal for persons to assemble unlawfully in the following situations:

- (A) The use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law; or
- (B) The assembly of **two (2)** or more persons to do an unlawful act; or
- (C) The assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence. **(See 720 ILCS Sec. 5/25-1) (See 65 ILCS Sec. 5/11-5-2)**

27-2-5 **DISTURBING THE PEACE.** No person shall disturb the peace of any individual or private family, or of any lawful congregation within the City by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(See 65 ILCS Sec. 5/11-5-2)**

27-2-6 **ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-7 **SALE OF CIGARETTES OR TOBACCO TO MINORS.** No minor under **eighteen (18)** 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 minor under **eighteen (18) years of age.**

For the purpose of this Section, "smokeless tobacco" is defined in **Section 27-2-8(A).**

(A) Tobacco products listed above may be sold through a vending machine only in the following locations:

- (1) Factories, businesses, office, private clubs, and other places not open to the general public.
- (2) Places to which minors under **eighteen (18) years** of age are not permitted access.
- (3) Places where alcoholic beverages are sold and consumed on the premises.
- (4) Places where the vending machine is under the direct supervision of the owner of the establishment or an employee over **eighteen (18) years** of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person. As used in this Section, "direct supervision" means that the owner or employee has an unimpeded line of sight to the vending machine.

- (5) Places where the vending machine can only be operated by the owner or an employee over age **eighteen (18)** either directly or through a remote control device if the device is inaccessible to all customers.

(See 720 ILCS Sec. 675/1) (Ord. No. 1028; 05-07-02)

27-2-8 **SMOKELESS TOBACCO.**

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).** No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. (See 720 ILCS Sec. 680-1 et seq.)

27-2-9 **UNLAWFUL CONDUCT ON A PUBLIC WAY.**

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

(C) It shall be unlawful to urinate on public ways.

(D) It shall be unlawful to urinate on private property when such conduct could be seen from a public way or from private property open to the public.

27-2-10 **AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. (See 720 ILCS Sec. 5/31-7)

27-2-11 **ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. (See 720 ILCS Sec. 5/31-6(C))

27-2-12 **FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-13 **RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-14 **AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-15 **POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper City and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-16 **INTOXICATION IN PUBLIC.** No person shall, in the City, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this City or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the City, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(See 65 ILCS Sec. 5/11-5-3)**

27-2-17 **BEGGING.** No person shall beg or solicit alms within the City without having obtained permission in writing from the Mayor. **(See 65 ILCS Sec. 5/11-5-4)**

27-2-18 **CONCEALED WEAPONS.** No person shall, within the City, carry or wear under his clothes, or concealed about his person, any pistol or colt, or sling-shot, or cross knuckles or knuckles of lead, brass or other metal, or any switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any sheriff or deputy sheriff or constable of this State, nor to any United States Marshal.

27-2-19 **DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful to discharge any firearm, bow and arrow or air gun in the City or so that the bullet, arrow, missile or projectile therefrom enters the City without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any citizen from discharging

a firearm when lawfully defending his person or property; nor to prevent the discharge of bow and arrow by students upon school grounds while under the direct and immediate supervision of teachers or other school supervisory personnel.

27-2-20 **GAMES IN STREET.** No person shall, upon any City street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-21 **STORAGE OF EXPLOSIVES.**
(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the City, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.

(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the City in any quantity exceeding **five (5) pounds.** (See 65 ILCS Sec. 5/11-8-4)

27-2-22 **THROWING ROCKS.** No person in the City shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-23 **DESTRUCTION OF PUBLIC PROPERTY.** No person in the City shall deface, destroy, or in any way, injure any public property, or any other apparatus of the City.

27-2-24 **ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. (See 720 ILCS Sec. 505/1)

27-2-25 **HALLOWEEN CURFEW.** It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the City, either masked or unmasked, except on a day designated by the City Council and no later than **8:00 P.M.** unless otherwise provided by the City Council. (See 65 ILCS Sec. 5/11-1-5)

27-2-26 **THEFT OF RECYCLABLES UNLAWFUL.** It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the City limits unless said person is acting as an agent for the City or acting as an agent for a waste hauler licensed by the City.

27-2-27 THROWING OBJECTS FROM MOTOR VEHICLES. Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the City Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-28 DEPOSITING OF SNOW AND ICE RESTRICTED. No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(See 65 ILCS Sec. 5/11-80-13)**

27-2-29 PROTECTIVE COVERING OR FENCING. Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(See 720 ILCS 605/1)**

27-2-30 CURFEW HOURS FOR MINORS.

(A) **Definitions.** Whenever used in this Section.

- (1) **"Curfew hours"** means:
 - (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
 - (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
 - (c) 12:01 A.M. until 6:00 A.M. on Sunday.
- (2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (3) **"Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- (4) **"Guardian"** means:
 - (a) A person who, under court order, is the guardian of the person of a minor; or
 - (b) A public or private agency with whom a minor has been placed by a court.

- (5) **“Minor”** means any person under **eighteen (18) years** of age.
- (6) **“Operator”** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (7) **“Parent”** means a person who is:
 - (a) A natural parent, adoptive parent, or stepparent of another person; or
 - (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) **“Public Place”** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (9) **“Remain”** means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (10) **“Serious bodily injury”** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B)

Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the City during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C)

Defenses.

- (1) It is a defense to prosecution under subsection (B) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;

- (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) **Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(See 65 ILCS 5/11-1-5 and 720 ILCS 555/1)**

27-2-31 SANCTITY OF FUNERAL AND MEMORIAL SERVICES. It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates.

27-2-32 USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS PROHIBITED.

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

27-2-33 LOUD AND UNNECESSARY NOISE. No person in the City shall create any unreasonably loud or unnecessary noise and disturb the peace and quiet of the City or of any citizens thereof by:

(A) Sounding of any horn, whistle, siren, or other signaling device, except where necessary to warn of the danger of an approaching vehicle;

(B) Playing of radio, loud speaker, public address system, or other electronic device in a loud and unnecessary manner;

(C) Keeping any animal or bird which by frequent and long continued noise disturbs the comfort and repose of any person in the vicinity;

(D) Unnecessary banging, pounding, clanging, clattering, or other loud noises not necessary in the performing of any useful work.

27-2-34 ABETTING OR ENCOURAGING VIOLATION. No person shall abet or encourage any unlawful act or any violation of any provision of the City Code.

27-2-35 UNATTENDED MACHINERY. It shall be unlawful for any person to permit any construction, compaction, earth-grading or farm machinery which is self-propelled and moves upon the surface of the earth, and which is owned or controlled by him to stand for any period of time unattended without locking the ignition system or otherwise rendering said machinery inoperable so as to prevent any person unauthorized by the owner or individual in control thereof from starting said machinery.

(See 65 ILCS Sec. 5/11-80-15)

ARTICLE III

OFFENSES AGAINST PROPERTY

27-3-1 **PETTY THEFT.** A person commits a petty theft when the value of the property is under **Three Hundred Dollars (\$300.00)** and he knowingly:

(A) obtains or exerts unauthorized control over property of the owner; or
 (B) obtains by deception, control over property of the owner; or
 (C) obtains by threat, control over property of the owner; or
 (D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; and

(1) intends to deprive the owner permanently of the use or benefit of the property;

(2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit;

(3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(E) It shall be unlawful to commit a petty theft.

(See 720 ILCS Sec. 5/16-1)

27-3-2 **CRIMINAL DAMAGE TO PROPERTY.** Any of the following acts by a person shall be a violation of this Code.

(A) To knowingly damage any property of another without his consent; or
 (B) recklessly, by means of fire or explosive, damage property of another; or
 (C) knowingly start a fire on the land of another without his consent; or
 (D) knowingly injure a domestic animal of another without his consent; or
 (E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. (See 720 ILCS Sec. 5/21-1)

27-3-3 **CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT.** No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. (See 720 ILCS Sec. 5/21-1.1)

27-3-4 **INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-5 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the City.

27-3-6 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(See 720 ILCS Sec. 5/32-9)**

27-3-7 **CLIMBING UTILITY POLES.** It shall be unlawful for any person in the City to climb upon any telegraph pole, telephone pole, electric light pole, or sign pole unless in the performance of his duties.

27-3-8 **VANDALISM.** No person shall willfully, without the consent of the owner, cut, pick, mar, mutilate, injure, or remove any tree, shrub, bush, plant, flower, vegetable, or other growth nor deface, mar, tear down, or injure any building structure, sign, public notice, vehicle, fence, monument, tomb stone, statue, or other object of ornament or utility in any public park, arboretum, street, or other public place, or on any private property in the municipality.

ARTICLE IV

PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE. A person commits disorderly conduct when he knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(B) transmits in any manner to the Fire Department of any City, town, city or fire protection district, a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(C) transmits in any manner to another a false alarm to the effect that a bomb or other explosive device of any nature is concealed in such a place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive device is concealed in such a place; or

(D) transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed; or

(E) enters upon the property of another and for a lewd or unlawful purpose, deliberately looks into a dwelling on the property through any window or other opening in it;

(F) while acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(G) transmits a false report to the Department of Children and Family Services.

(See 720 ILCS Sec. 5/26-1)

27-4-2 RESISTING OR OBSTRUCTING A PEACE OFFICER. A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(See 720 ILCS Sec. 5/31-1)**

27-4-3 REFUSING TO AID AN OFFICER. A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

(A) apprehending a person whom the officer is authorized to apprehend; or

(B) preventing the commission by another of any offense.

(See 720 ILCS Sec. 5/31-8)

27-4-4 ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice

cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

- (1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.
- (2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:
 - (a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.
 - (b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.
 - (c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.
 - (d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two 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 Sec. 5/11-5-2)

27-4-5 TRAPPING ANIMALS. It shall be unlawful for anyone to trap game or fur-bearing animals unless permission is granted by the City Council.

27-4-6 **REFUSAL TO DISPERSE.** No person in the municipality shall knowingly fail to obey a lawful order of dispersal by a person known by him to be a police officer under circumstances where **three (3) or more persons** are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance, or alarm.

27-4-7 **FIGHTING.** No person in the City shall start a fight, offer to fight, engage in a fight, assault or strike another person or provoke a breach of the peace by threatening to assault or strike another person.

27-4-8 **LOUD AND UNNECESSARY NOISE AND MUSIC.**
(A) No person or entity in the City shall create any unreasonably loud or unnecessary noise and disturb the peace and quiet of the City or of any citizens thereof by:

- (1) Sounding of any horn, whistle, siren, or other signaling device, except where necessary to warn of the danger of any approaching vehicle;
- (2) Playing of radio, loud speaker, public address system, or other electronic device in a loud and unnecessary manner;
- (3) Keeping any animal or bird which by frequent and long continued noise disturbs the comfort and repose of any person in the vicinity;
- (4) Unnecessary banging, pounding, clanging, clattering, or other loud noises not necessary in the performing of any useful work;
- (5) Excessively loud operation of motor vehicles, including, but not limited to automobiles, motorcycles and motorbikes.

(B) The following acts are declared to be unreasonably loud or disturbing noises in violation of this Code, to wit:

- (1) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo, or other machine or device for the producing, or reproducing or broadcast of music or other sound in a loud or disturbing manner between the hours of **1:00 a.m.** and **8:00 a.m.**, wherein the sound emanating from such device is plainly audible at a distance of **fifty (50) feet** from the source or is plainly audible inside a neighboring residential occupancy with the doors and windows closed.
- (2) The playing, using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, stereo or other machine or device for the producing, or reproducing or broadcast of sound in such manner wherein the sound emanating from such device is plainly audible inside a school, church, hospital, medical clinic or nursing home during operating or business hours with the doors and windows closed.
- (3) For the purpose of this Section, "plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. An Enforcement Officer need not determine the title of a song, specific words or the artist performing the song; the

detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound. A "residential occupancy" includes single family dwellings, multiple family dwellings, boarding house rooms, hotel rooms or motel rooms.

- (4) The following uses and activities shall be exempt from these regulations:
 - (a) School sponsored activities conducted on school property at times other than between the hours of **10:00 p.m.** and **7:00 a.m.** (Additional hours by permit)
 - (b) Church related activities conducted on church property at times other than between the hours of **10:00 p.m.** and **7:00 a.m.** (Additional hours by permit)
 - (c) Authorized City sponsored or permitted parades and events.
- (5) The first violation of the Section shall result in a written or verbal warning and the issuance of a ticket by the City with a fine of no less than **Seventy-Five Dollars (\$75.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**. If a second or subsequent violation occurs within **ninety (90) days** of a previous written or verbal warning, the City shall order the permanent cessation of the activity causing or creating the violation or the revocation of any permits or license for any business in violation of the Section and issue a subsequent ticket with a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)**, each day a violation occurs shall be considered a separate offense. (**Ord. No. 1129; 12-19-06**)

27-4-9 **PROFANITY.** No person in the City shall use obscene, profane, vulgar, offensive, or unseemly language to the annoyance or vexation of others.

27-4-10 **PEEPING TOM.** No person in the City shall enter upon the property of another and for a lewd and unlawful purpose deliberately look into a dwelling or property through the window or other opening in the City.

27-4-11 **SCAVENGERS PROHIBITED.**

(A) The term "**scavenger**" as used in this Section shall mean a person who collects or disposes of refuse, wastes or rubbish as described in **Article III**, of **Chapter 25** of this Code.

(B) It shall be unlawful for any person to work or function as a scavenger, as defined herein, in the City. No person shall scavenge through any trash receptacle, dumpster, or container.

27-4-12 **FALSE REPORT OF OFFENSE.** No person shall transmit in any manner to any police officer or other public official or public employee a report to the effect that an

offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed.

27-4-13 INTERFERING WITH FIREMEN. No person shall, at any fire, hinder, delay, resist, or obstruct any officer, fireman, or other person in the discharge of his duties or neglect or refuse to obey the lawful command of any police officer or fireman at the scene of a fire.

27-4-14 THROWING JUNK ON PRIVATE PROPERTY. No person shall throw, place, or deposit any dirt, ashes, trash, cans, bottles, junk, or other objects whatever upon the premises of another in the City.

27-4-15 ASSAULT, BATTERY, AFFRAY AND RECKLESS CONDUCT. It shall be unlawful for any person to knowingly start a fight, or to fight, or to commit any assault and battery or perform any reckless conduct anywhere within the City.

(A) **Assault Defined.** A person commits an assault when, without lawful authority, he engages in conduct which places another in reasonable apprehension of receiving a battery.

(B) **Battery Defined.** A person commits battery if he intentionally or knowingly, without legal justification, and by any means:

- (1) causes bodily harm to any individual; or
- (2) makes physical contact of an insulting or provoking nature with an individual.

(C) **Affray Defined.** A person commits an affray if he engages in a noisy brawl, or quarrel, public fight, riot, or breach of the peace.

(D) **Reckless Conduct Defined.** A person who causes bodily harm to or endangers the bodily safety of an individual by any means commits reckless conduct if he performs recklessly the acts which cause the harm or endangers the safety of an individual, whether they are lawful or are unlawful.

(E) All owners and/or proprietors of businesses in the City, including taverns, shall report all offenses contained in this Section to the police department while occurring or immediately after they occur.

27-4-16 SALE OF FIREARMS OR WEAPONS TO MINORS.

(A) It shall be unlawful for any person in the City to sell to any minor person any firearm, bludgeon, blackjack, slingshot, sand-club, sandbag, metal knuckles, dagger, dirk, bill, dangerous knife, stiletto, or any knife commonly referred to as a switchblade, which has a blade that open automatically by hand pressure applied to a button, spring, or other device in the handle of the knife.

(B) It shall be unlawful for any person in the City to sell, lend, rent, give, or otherwise transfer any "air raffle" to a person under **thirteen (13) years** of age, except where the relationship of parent-child, guardian-ward, or adult instructor-pupil exists between such person and the person under **thirteen (13) years** of age.

(C) It shall be an affirmative defense for any person in the City having sold such weapon that:

- (1) The minor procured the sale by use of false or forged identification cards;
- (2) That he did not know and could not reasonably have known of the falsity or forgery; and
- (3) That he exercised reasonable diligence to determine the veracity of the representation.

27-4-17 **INTIMIDATION.** It shall be unlawful for any person to commit an act of intimidating another within the City. A person commits intimidation when, with intent to cause another person to perform or to omit the performance of any act, he communicated to another without otherwise lawful authority a threat to perform any of the following acts:

- (A) Inflict physical harm on the person threatened or any other person or property; or
- (B) Subject any person to physical confinement or restraint; or
- (C) Commit any criminal offense; or
- (D) Accuse falsely any person of an offense; or
- (E) Expose any person to hatred, contempt, or ridicule; or
- (F) Unlawfully take action as a public official against anyone or withhold official action or cause such action or withholding; or
- (G) Bring about or continue any strike, boycott, or other collective or mob action.

27-4-18 **POSSESSION OF CANNABIS.**

(A) **Cannabis Defined.** "Cannabis" including marijuana, hashish, and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of such plant which is incapable of germination.

(B) **Violation.** It shall be a violation of this Section for any person in the City knowingly to possess any quantity of any substance containing cannabis, unless permitted by the State of Illinois.

27-4-19 **USE OF POTABLE WATER SUPPLY.**

(A) **Definitions.** The following definition shall apply to this Section:

- (1) **Person** is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or their legal representatives, agents or assigns.

(2) **Potable Water** is any water used for human or domestic consumption, including, but not limited to, water used for drinking, bathing, swimming, washing dishes or preparing foods.

(B) **Use of Groundwater as a Potable Water Supply Prohibited.** The use or attempt to use as a potable water supply groundwater from within the corporate limits of the City of Breese by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition extends to any wells owned, utilized or otherwise operated by the City of Breese.

(C) **Penalties.** Any person violating the provision of this Section shall be subject to a fine of up to **One Hundred Fifty Dollars (\$150.00)** for each violation. **(Ord. No. 1008; 03-29-01) (See 35 Ill. Adm. Code 620)**

ARTICLE V - ANTI-LITTER

27-5-1 DEFINITIONS. For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

“AIRCRAFT” is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

“AUTHORIZED PRIVATE RECEPTACLE” is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

“CONSTRUCTION SITES” means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

“HANDBILL” is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

“LITTER” is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

“LOADING AND UNLOADING DOCK” means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

“PRIVATE PREMISES” means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

“PUBLIC PLACE” means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

“PUBLIC RECEPTACLES” means any receptacles provided by or authorized by the City.

“VEHICLE” is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 LITTERING PROHIBITED. No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 PREVENTION OF SCATTERING. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 RECEPTACLES - UPSETTING OR TAMPERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 SIDEWALKS AND ALLEYS FREE FROM LITTER. Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

27-5-6 OWNER TO MAINTAIN PRIVATE PREMISES.
(A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.
(B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 LITTERING FROM VEHICLES.
(A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.
(B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the City unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the City.

27-5-9 **LITTER IN PARKS.** No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 **HANDBILLS.**

(A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 **POSTING NOTICES PROHIBITED.** No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 **CONSTRUCTION SITES.**

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 **LOADING AND UNLOADING DOCKS.** The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 **PARKING LOTS.**

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces.**

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

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 Sec. 5/11-1-1 and 415 ILCS Sec. 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 Sec. 5/11-5-2)

ARTICLE VII

PARENTAL RESPONSIBILITY REGULATIONS

27-7-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"ACTS OF VANDALISM AND SIMILAR OFFENSES" shall include any of the following acts:

- (A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the City, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or
- (B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or
- (C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or
- (D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or
- (E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

"LEGAL GUARDIAN" shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

"MINOR" shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

"PARENT" shall include the lawful father and mother of a minor child whether by birth or adoption.

"PROPERTY" shall include any real estate including improvements thereon and tangible personal property.

27-7-2 **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

- (A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial

sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and

(B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the City, following said adjudication or non-judicial sanctions; and

(C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(See 740 ILCS 115/1 et seq. and 740 ILCS 115/4)

(See also 740 ILCS 5/21-1.2 et seq.)

ARTICLE VIII – TRUANCY AND CURFEW CODE

27-8-1 DEFINITIONS. As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"CITY CURFEW HOURS" means the period of time specified in **Section 27-2-30** of the Chapter.

"COURT" means the 4th Judicial Circuit; Clinton County, Illinois.

"CUSTODIAN" means:

- (A) a person who under court order is the custodian of the person of a minor
- or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

"GUARDIAN" means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor;
- or
- (C) a public or private agency with which the court has placed a minor.

"MINOR" means a person under **eighteen (18) years** of age.

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the City and/or the court as an agency which provides service to improve education performance and/or attendance.

27-8-2 CURFEW RESTRICTIONS.

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during curfew hours.

(C) It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1) accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2) on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4) engaged in, going to or returning home from an employment activity without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence;
- (7) engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution; or
- (9) emancipated pursuant to law.

27-8-3 TRUANCY RESTRICTIONS.

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the City during truancy curfew hours.

(C) It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2) involved in an emergency;
- (3) going to or returning from a medical appointment without any detour or stop;
- (4) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternative education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-8-4 **ESTABLISHMENT RESTRICTIONS.** It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2** or **27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2** or **27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

27-8-5 **ENFORCEMENT RESTRICTIONS.** Every member of the Police Department while on duty is hereby authorized as follows:

(A) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

- (C) A citation issued hereunder this shall be in writing and shall:
- (1) state the name of the person being cited and the person's address if known;
 - (2) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
 - (3) be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-8-6 **PENALTY.**

(A) Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

27-8-7 **CIVIL LIABILITY.** If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the

minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the City in collecting.

ARTICLE IX - OPEN BURNING

27-9-1 **DEFINITIONS.** Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

"GARBAGE OR HOUSEHOLD TRASH" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

27-9-2 **BURNING PROHIBITED.** It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage and leaves at any time.

(See 415 ILCS 5/1 et seq.)

ARTICLE X - OBSCENITY

27-10-1 OBSCENITY.

(A) **Elements of the Offense.** A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;

- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(See 65 ILCS Sec. 5/11-5-1)**

27-10-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially

exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D)

Affirmative Defenses.

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
 - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."

(E)

Child Falsifying Age. Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false

or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(See 65 ILCS Sec. 5/11-5-1)**

27-10-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS.

Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(See 720 ILCS Sec. 5/11-22)**

ARTICLE XI – ADULT USES REGULATED

27-11-1 PURPOSE AND ADDITIONAL FINDINGS.

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The City Council finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.

- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the City will be promoted by the enactment of this Article.

27-11-2 **DEFINITIONS.** As used in this Article:

(A) **"Adult Oriented Business"** means an establishment as defined in the City Code.

(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-11-3 **PROHIBITION.** It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-11-4 **LIMITATION.** This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-11-5 **ADULT ENTERTAINMENT FACILITY.** It shall be unlawful within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(See 65 ILCS 5/11-5-1.5)**

ARTICLE XII - SYNTHETIC DRUGS

27-12-1 SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylenedioxypropylamphetamine, (a psychoactive drug), or cathinone derivatives.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **"Bath salts"** a substance that contains methylenedioxypropylamphetamine (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).
- (5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.
- (6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (7) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.

- (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

(B) **Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

27-12-2 SALE, POSSESSION OR DELIVERY OF SYNTHETIC CANNABIS PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.

- (c) knowledge may be inferred from the surrounding circumstances.
 - (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
 - (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
 - (6) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
 - (7) **Produce or Production.** Planting, cultivating, tending or harvesting.
- (B) **Possession of Synthetic Cannabis Prohibited.**
- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.
 - (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
 - (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
 - (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
 - (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

ARTICLE XIII

REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-13-1 **DEFINITIONS.** The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

and also as defined by **720 ILCS 5/11-9.3**.

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" includes ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

(E) **"Public Pool"** includes any parcel of real estate containing any natatorium or other improved real estate, designated or intended for swimming, water recreation, or water sports. Whether operated or owned by a public entity, or to which memberships are sold to the public.

27-13-2 PROHIBITED ACTS.

(A) It is unlawful for a child sex offender to reside within **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**;
- (2) The real property comprising any park; or
- (3) Any public pool.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **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**;
- (2) The real property comprising any park; or
- (3) Any public pool.

(C) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **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**;
- (2) The real property comprising any park; or
- (3) Any public pool.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **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; or
- (3) Any public pool.

27-13-3 PENALTY. Any person found guilty of violating paragraphs (B) or (C) or (D) of **Section 27-13-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **One Thousand Dollars (\$1,000.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraph (D) of **Section 27-13-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **One Thousand Dollars (\$1,000.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity violating

paragraph (D) of **Section 27-13-2** shall be presumed to have had knowledge of the tenant's status as a child sex offender, where that tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-13-4 OTHER PROVISIONS.

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property, public pool property, or school property, and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

(Ord. No. 1196; 09-01-09)

ARTICLE XIV - DRUG PARAPHERNALIA

27-14-1 **DEFINITIONS.**

(A) The term "**drug paraphernalia**" means all equipment, products, and materials of any kind which are used, intended for use, or marketed for use with illegal cannabis or drugs, as defined by the **Illinois Compiled Statutes**, or designed for use in planting, propagating, cultivating, growing, harvesting, manufactured, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the. Illinois Controlled Substances Act, **Illinois Compiled Statutes, Chapter 720, Paragraph 570/100, et seq.**, "Drug paraphernalia" includes, but is not limited to:

- (1) Kits used, intended for use or designed for use in the planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment, used, intended for use, or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
- (6) Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

- (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
- (b) water pipes;
- (c) Carburetion tubes and devices;
- (d) Smoking and carburetion masks;
- (e) Roach clips or other objects used to hold burning materials, such as a marijuana cigarette which has become too small or short to be held in the hand;
- (f) Miniature cocaine spoons and cocaine vials;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;
- (k) Chilams;
- (l) Bongs;
- (m) Ice pipes or chillers.

27-14-2 DETERMINATION OF DRUG PARAPHERNALIA. In determining whether an object is "drug paraphernalia", a court or other authority should consider, in addition to all other relevant factors, the following:

- (A) Statements by an owner or anyone in control of the object concerning its use;
- (B) Prior convictions, if any, of an owner or anyone in control of the object, under any state or federal law relating to any controlled substances;
- (C) The proximity of the object, in time and place, to a direct violation of this Article;
- (D) The proximity of the object to controlled substances;
- (E) The existence of any residue of controlled substances on the object;
- (F) Direct or circumstantial evidence of the intent of an owner or anyone in control of the object to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Article; and the innocence of any owner or anyone in control of the object, as to a direct violation of this Article, shall not prevent a finding that the object is intended or designed for use as "drug paraphernalia";
- (G) Instructions, oral or written, provided with the object concerning its use;
- (H) Descriptive materials accompanying the object which explain or depict its use;
- (I) National and local advertising concerning the object's use;
- (J) The manner in which the object is displayed for sale;
- (K) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licenses distributor or dealer of tobacco products;
- (L) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise in question;
- (M) The existence and scope of legitimate uses for the object in the community;
- (N) Expert testimony concerning the object's use.

27-14-3 OFFENSES AND PENALTIES.

(A) **Possession of Drug Paraphernalia.** It is unlawful for any person to use, or possess with the intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the **Illinois Controlled Substance Act, (720 ILCS Sec. 570/100 et seq.)**.

(B) **Manufacture or Delivery of Drug Paraphernalia.** It is unlawful for any person to deliver, to sell, to possess with the intent to deliver or sell, or to manufacture with the intent to deliver or sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the **Illinois Controlled Substance Act, (720 ILCS Sec. 570/100, et seq.)**.

(C) **Delivery of Drug Paraphernalia to a Minor.** Any person **eighteen (18) years** of age or older who violates subsection (B) of this Section by delivering, selling, or giving drug paraphernalia to a juvenile is guilty of an additional offense, and upon conviction, shall be fined as provided in **Section 1-1-20**.

(D) **Advertisement of Drug Paraphernalia.** It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(See Section 1-1-20 for penalty.)

27-14-4 FORFEITURE OF PROPERTY.

(A) All articles defined in subsection (B)(1) shall be subject to forfeiture.

(B) Property subject to forfeiture under this Article may be seized by any peace officer upon process issued by any court having jurisdiction over the property. Seizure by any police officer without process may be made:

- (1) If the property subject to seizure has been the subject of a prior judgment in favor of the City in an ordinance violation proceeding;
- (2) If there is probable cause to believe that the property is either directly or indirectly dangerous to health or safety.

(C) In the event of seizure pursuant to subsection (B), proceedings under subsection (D) shall be promptly instituted.

(D) Property taken or detained under this Article shall not be subject to replevin, but is deemed to be in the custody of the Chief of Police, subject only to the orders of the court having jurisdiction over the forfeiture proceedings. When property is seized under this Article, the Chief of Police may:

- (1) Place the property under seal; or
- (2) Remove the property to a place designated by him; or
- (3) Take custody of the property and remove it to an appropriate location for destruction.

27-14-5 PROHIBITION OF POSSESSION OF WEAPONS, LIQUOR AND DRUGS IN THE CITY HALL. Except for evidence purposes, it shall be unlawful for any person other than police officers to possess within the City Hall:

- (A) a dangerous weapon as defined in **Illinois Compiled Statutes, Chapter 720, Section 5/33A-1**, as now and hereafter amended or renumbered, or
- (B) alcoholic liquor as defined in **Chapter 21**, or
- (C) a controlled substance as defined in **Illinois Compiled Statutes, Chapter 720, Section 570/102**, as now and hereafter amended or renumbered, or
- (D) cannabis, as defined in the **"Cannabis Control Act", Illinois Compiled Statutes, Chapter 720, Section 550/1, et seq.**, as now and hereafter amended or renumbered.

CHAPTER 28

PARKS AND RECREATION

ARTICLE I - PARK BOARD

28-1-1 **PARK BOARD ESTABLISHED.** There is hereby established a Park Board.

28-1-2 **APPOINTMENT - TERM.** The Board shall consist of **nine (9) members** appointed by the Mayor with the advice and consent of the City Council. The term of office shall be **three (3) years** and each ward shall have at least **two (2) members**. All appointments shall be made on **May 1st** of each year.

28-1-3 **VACANCY.** If a vacancy occurs in the office of any member, the Mayor shall appoint a successor to serve the unexpired term with the advice and consent of the City Council.

28-1-4 **DUTIES.** The duties and responsibilities of the Park Board shall be to give advice and recommendations to the City Council concerning the improvement and use of the parks. The Park Board shall not have authority to negotiate contracts incurring costs for the City of Breese.

(Ord. No. 771; 05-04-93)
(See 65 ILCS Sec. 5/11-95-3)

ARTICLE II - REGULATIONS

28-2-1 DESTRUCTION OF PARK PROPERTY. Within the municipal parks, no person except park personnel on official business shall:

(A) cut, break, injure, destroy, take, or remove any tree, shrub, timber, plant, or natural object;

(B) kill, cause to be killed, or pursue with intent to kill any bird or animal except in areas where the City has authorized hunting;

(C) willfully mutilate, injure or destroy any building, bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument, or other park property or appurtenances.

28-2-2 LITTERING - WATER POLLUTION.

(A) No person shall deposit any trash within the municipal parks except in proper receptacles where these are provided. Where receptacles are not provided, all trash shall be carried away from the parks by the person responsible for its presence and shall be properly disposed of elsewhere.

(B) No person shall discharge or otherwise place or cause to be placed in the waters of any fountain, lake, stream, or other body of water in or adjacent to any park or in any tributary, stream, storm sewer or drain flowing into such waters any substance or thing, liquid or solid which will or may result in the pollution of the waters.

28-2-3 FIRES IN PARKS.

(A) No person shall light or use any unenclosed picnic fire within the municipal parks. Fires may be built only in fireplaces or on grills constructed for that purpose in designated areas.

(B) In camping areas, no person shall leave any campfire unattended by a competent person.

28-2-4 PICNICS. No person shall picnic in the municipal parks except in areas designated for that purpose. Park personnel are hereby authorized to regulate the activities in such areas when necessary to prevent congestion or to secure the maximum use, comfort, and convenience of all. Visitors shall comply with any directions given to achieve this end.

28-2-5 ERECTION OF STRUCTURES. No person shall build or place any tent, building, booth, stand, or other structure in or upon any municipal park or other recreational facility unless he has obtained a permit to do so from the City.

28-2-6 **SIGNS.** No person shall place within any municipal park or affix to any object therein any sign or device designated to advertise any business, profession, exhibition, event or thing unless he has obtained a permit to do so from the City.

28-2-7 **ANIMALS.** No person shall:
(A) Bring any dangerous animal into any municipal park; or
(B) permit any dog to be in any park unless such dog is on a leash; or
(C) ride or lead any horse in any municipal park or recreational area except upon paths or other ways expressly provided and posted for that purpose.

28-2-8 **MOTOR VEHICLES PROHIBITED.** No person other than municipal personnel on official business shall drive or park any motor vehicle, including snowmobiles, in any municipal park except on a roadway or parking lot.

28-2-9 **SALES; AMUSEMENTS FOR GAIN.** Within the parks of this Municipality, no person shall, without having first obtained a permit from the City:
(A) sell or offer for sale any goods or services; or
(B) conduct any amusement for gain or for which a charge is made.

28-2-10 **GROUP ACTIVITIES.** Whenever any group or organization desires to use municipal park facilities for a particular purpose such as picnics, parties, exhibitions or performances, a representative of the group shall first apply for and obtain a permit for such activity from the Park Board and/or the City Council.

28-2-11 **APPLICATION FOR PERMIT.** Applications for all permits required by this Chapter shall be made in writing to the Park Board and/or City Council not less than **thirty (30) days** before the proposed date of the activity for which the permit is sought. Each application shall include the following information:

- (A) A statement briefly describing the nature of the proposed activity;
- (B) name, address and telephone number of the person or organization wishing to conduct such activity;
- (C) the date when such activity is to be conducted;
- (D) the hour when such activity will start and terminate;
- (E) the park or portion thereof for which such permit is desired; and
- (F) an estimate of the anticipated attendance. **(See Permit - Appendix "A")**

28-2-12 **DECISION ON PERMIT APPLICATION.** After due consideration of the information contained in the permit application, but not later than **ten (10) days** after the application has been filed the Park Board and/or City Council shall determine whether the application is satisfactory. An application shall be deemed satisfactory if:

(A) the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

(B) the facilities desired have not been reserved for other use at the day and hour requested in the application;

(C) the conduct of such activity will not substantially interrupt the safe and orderly movement of traffic;

(D) the proper policing of such activity will not require the diversion of so great a number of police officers as to prevent normal protection to the remainder of this Municipality;

(E) the conduct of such activity is not reasonably likely to cause injury to persons or property or to incite violence, crime or disorderly conduct; and

(F) such activity is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.

28-2-13 **ISSUANCE OR DENIAL OF PERMIT.**

(A) Notification by regular mail or by telephone shall be made promptly by the Park Board and/or City Council to every permit applicant of the decision on his application.

(B) If such decision is favorable, the Park Board and/or City Council shall issue the permit. As a condition of the issuance of any permit, the Park Board and/or City Council may require that an indemnity bond be obtained if, in their opinion, such bond is necessary to protect this Municipality from liability or to protect municipal property from damage.

(C) The Park Board and/or City Council shall inform each applicant who has been denied a permit regarding this reasons for the denial and the procedure for appeals.

28-2-14 **CLOSING.** The park shall be closed during the following time periods unless the City Council has granted permission for longer hours:

Sunday to Thursday: 11:00 p.m. - 6:00 a.m.

Friday to Saturday: 12:00 a.m. - 6:00 a.m.

28-2-15 **GLASS PROHIBITED.** No glass containers or bottles shall be permitted on City Park property.

28-2-16 **FIREWORKS, MISSILES, GUNS, BOWS AND ARROWS.** Fireworks shall not be permitted in the park without written permission or proper authorization from the City Council. No person shall carry firearms of any description, air or gas guns, slingshots, explosives, or missile-throwing or propelling devices including the use of bows and arrows, within the City Park at any time.

28-2-17 **POWER MODELS AND TOY ENGINE PARTS.** Engine-powered model and toy airplanes, boats, car sirens or other noisemaking devices are not permitted to be operated within the confines of the City Park.

ARTICLE III - POOL MANAGER

28-3-1 POOL MANAGER. The Pool Manager shall be appointed by the City Council and shall attend meetings of the Board when requested. The Pool Manager shall be knowledgeable and perform duties as follows:

(A) He shall become thoroughly familiar with the State of Illinois requirements governing the operation of a swimming pool.

(B) He shall not incur any indebtedness other than normal operation without prior approval of the City Council.

(C) He shall hire and discharge all personnel required in the operation of the Pool.

(D) He shall deposit all receipts and maintain a simplified record of all financial transactions conducted by him as may be required by the Treasurer.

(E) He shall make and enforce rules and regulations for the safe operation of said swimming pool.

(F) He shall keep and maintain a record of the time all hourly employees work as may be required by the Treasurer.

(G) He shall deposit all funds in the name of the City Swimming Pool Fund.

(H) He shall approve all invoices for supplies used in and about said pool, all expenditures for labor, and all invoices for repair and maintenance of the pool prior to approval of the bills of the City Council. All bills must be approved by the City Council before being paid by the Treasurer.

ARTICLE IV

GOLF COURSE

28-4-1 **VEHICLES ON GOLF COURSE.** It shall be unlawful for anyone to bicycle or ride any motor vehicle, including mopeds and snowmobiles, on the Breese Municipal Golf Course, excluding golf carts. Only authorized personnel may drive a motor vehicle or bicycle on the premises.

Anyone found to be guilty of violating this Code shall pay a fine of **Fifty Dollars (\$50.00)** and be subject to cost for damages. **(Ord. No. 773; 07-06-93)**

28-4-2 **RETRIEVING GOLF BALLS.** It shall be unlawful for anyone other than employees or representatives of the City of Breese to enter any lake or pond located on the Bent Oak Municipal Golf Course. Golfers may enter with the use of a ball retriever without being in violation of this Section. Persons found guilty of violating this Section may be fined up to **Five Hundred Dollars (\$500.00)**. **(Ord. No. 835; 09-19-95)**

ARTICLE V – HOLIDAY LIGHTING COMMITTEE

28-5-1 **HOLIDAY LIGHTING COMMITTEE ESTABLISHED.** There is hereby established a Holiday Lighting Committee.

28-5-2 **APPOINTMENT/TERM.** The Mayor, with advice and consent of the City Council shall appoint **three (3) members** to serve until resignation or removal, and such members shall be residents of the City. Vacancies shall be filled by appointment of the Mayor with advice and consent of the Council.

28-5-3 **DUTIES.** The duties of the Holiday Lighting Committee shall be to create and implement plans with respect to holiday lighting and decoration displays for the City Parks, fund-raising, and generating community involvement. The committee shall have no authority to incur expenses on behalf of the City, absent approval of the Mayor and Council, or bind the City to any contractual obligation.

(Ord. No. 1280; 04-16-13)

CHAPTER 30

PUBLIC SAFETY

ARTICLE I - CIVIL EMERGENCY

30-1-1 **DEFINITIONS.**

"CIVIL EMERGENCY" is hereby defined to be:

(A) A "riot or unlawful assembly" characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or

(B) Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the City resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

"CURFEW" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the City excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 **DECLARATION OF EMERGENCY.** Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

30-1-3 **CURFEW.** After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the City or to the City as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

30-1-4 **AUTHORITY OF MAYOR TO ISSUE ORDERS.** After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

(A) Order the closing of all retail liquor stores including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(B) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(D) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(E) Issue such other orders as are imminently necessary for the protection of life and property.

30-1-5 **EFFECTIVENESS.** The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

30-1-6 **NOTIFICATION.** Upon issuing the proclamation herein authorized, the Mayor shall notify the news media situated within the City and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the City:

- (A) The City Hall.
- (B) The Post Office.
- (C) The County Courthouse.

ARTICLE II - POLICE DEPARTMENT

DIVISION I - POLICE CHIEF

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. It shall embrace the City Council standing committee on police, **one (1)** chief of police and such other regular patrolmen as the City Council may hereafter, from time to time, provide for, and also such special policemen as the Mayor, in accordance with the provisions of this Chapter, may appoint and commission.

30-2-2 **POLICE COMMITTEE.** The City Council standing committee on police shall exercise a general supervision over the affairs of the police 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 acts necessary to promote the efficiency of the department.

30-2-3 **OFFICE OF CHIEF CREATED.** There is hereby established the office of the Chief of Police. The Chief of Police shall be appointed by the Mayor with the advice and consent of the City Council.

30-2-4 **SALARY.** He shall receive such compensation as may be provided by the City Council.

30-2-5 **DUTIES.** The Chief of Police shall devote his entire time to the performance of the duties of his office, and is hereby charged with the preservation of the peace, order and safety of the City, and with the duty of protecting the rights of persons and property and of enforcing all laws and also all orders of the City Council.

He shall take notice of all nuisances, obstructions and defects on the highways, or other public places, and shall cause the same to be abated or removed, or immediate notice thereof given to the proper officer, whose duty it may be to take action in relation thereto.

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.

30-2-6 - 30-2-9 **RESERVED.**

DIVISION II - PERSONNEL

30-2-10 **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.

30-2-11 **DUTIES.** The policeman shall devote his entire time to the performance of the duties of his office and is hereby charged with the preservation of the peace, order and safety of the City and with the duty of protecting the rights of persons and property and of enforcing all laws and also all orders of the City Council. He shall take notice of all nuisances, obstructions and defects on the highways or other public places, and shall cause the same to be abated or removed, or immediate notice thereof given to the proper officer whose duty it may be to take action in relation thereto. When requested by the Mayor he shall attend, either in person or by deputy, all meetings of the City Council, execute all its orders and close the Council Chamber upon the adjournment of that body. He shall also execute all warrants or other legal process required to be executed by him under any ordinance of the City or laws of the State of Illinois.

30-2-12 **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.

30-2-13 **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 and 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.

30-2-14 **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.

30-2-15 **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.

30-2-16 **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.

30-2-17 **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. Provided, however, the member shall be entitled to a hearing prior to removal or dismissal.

30-2-18 **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.

30-2-19 **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.

30-2-20 **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.

30-2-21 **RULES AND REGULATIONS.** The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable and such rules, when approved by the Mayor, shall be binding on such members.

30-2-22 **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the City. **(65 ILCS 5/11-1-1, et seq.)**

30-2-23 **PART-TIME POLICE OFFICERS.**

(A) **Employment of Part-Time Police Officers.** The City shall hire part-time police as needed for the protection of the safety of the public.

(B) **Hiring Standards.** Part-time police officers (officers who are not full-time police officers) shall be qualified to be trained under the Intergovernmental Law Enforcement Officer's In-Service Training Act **(50 ILCS 720/1 et seq.)** in accordance with the procedures for part-time police officers established by the Illinois Law Enforcement Training Standards Board and shall successfully complete any such training. Such standards shall include:

- (1) Must be of good moral character, of sound health, and physically and mentally able to perform his or her duties;
- (2) Be at least **twenty-one (21) years** of age;
- (3) Possess a valid driver's license;
- (4) Possess a high school diploma or GED Certificate;
- (5) Have no prior felony convictions;
- (6) Must pass a medical examination.

(C) **Status.** Part-time police officers shall be members of the regular police department, except for pension purposes.

(D) **Supervisory Authority and Supervision.** Part-time police officers shall not be assigned to supervise or direct full-time officers and cannot be used as a permanent replacement for permanent full-time officers and shall be under the discretionary jurisdiction of the Chief of Police. A part-time officer hired after **January 1, 1996**, who has received certification under Section 8.2 of the Illinois Police Training Act **(50 ILCS 705/8.2)**, shall be directly supervised.

(E) **Number of Work Hours Restricted.** The number of hours the part-time police officer may work within a calendar year are restricted.

(F) **Part-Time Police Officer Training.** All part-time police officers must be trained in accordance with the Illinois Police Training Act **(50 ILCS 705/1 et seq.)** and requirements of the Illinois Law Enforcement Training and Standards Board.

(Ord. No. 1252; 06-05-12)

30-2-24 - 30-2-29 **RESERVED.**

ARTICLE III

EMERGENCY MANAGEMENT AGENCY
(EMA)

30-3-1 **POLICY AND PROCEDURES.**

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal emergency management agency;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter (**65 ILCS Sec. 5/11-1-6**).
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency management operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-3-2 **LIMITATIONS.** Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the City Council to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

30-3-3 **DEFINITIONS.** As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-3-4 **EMERGENCY MANAGEMENT AGENCY.**

(A) There is hereby created an emergency management agency and a coordinator of the emergency management agency, herein called the "coordinator", who shall

be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Board. He shall serve at the pleasure of the Mayor.

(B) The Emergency Management Agency shall obtain, with Board 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 Management Agency, and shall be responsible under the direction of the Mayor for carrying out the program for emergency management operations of this municipality. He shall coordinate the activities of all organizations for emergency management operations within this municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor or any persons designated by him, shall be and act as coordinator until a new appointment is made as provided in this Code.

(D) The Municipal Emergency Management Agency shall take an integral part in the development and revision of the local emergency operations plan.

(E) In the development of the emergency operations plan, the municipal emergency management agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Municipal Emergency Management Agency shall:

- (1) Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;
- (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;
- (3) Biannually review and revise the local Emergency Operations Plan;
- (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
- (5) Establish a register of government and private response resources available for use in a disaster;
- (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
- (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
- (8) Initiate and coordinate planning for:
 - (a) The establishment of an emergency operating center;
 - (b) The implementation of a 911 system.
- (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-3-5 EMERGENCY MANAGEMENT POWERS OF THE MAYOR.

(A) The Mayor shall have the general direction and control of the emergency management agency, and shall be responsible for the carrying out of the provisions of this Code.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

(C) In performing his duties under this Code, the Mayor is further authorized:

(1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him.

(2) To cause to be prepared a comprehensive plan and program for the emergency management of this municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:

(a) Prevention and minimization of injury and damage caused by disaster;

(b) Prompt and effective response to disaster;

(c) Emergency relief;

(d) Identification of areas particularly vulnerable to disasters;

(e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

(f) Assistance to local officials in designing local emergency action plans;

(g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;

(h) Organization of municipal manpower and chains of command;

(i) Coordination of local emergency management activities;

(j) Other necessary matters.

(3) In accordance with such plan and program for the emergency management of this municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.

(4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency management agency as its office.

30-3-6 FINANCING.

(A) It is the intent of the City Council and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the City Council's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the City Council for the purpose of enacting ordinances as the City Council may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the City Council is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the City Council can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

30-3-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or City Council. If declared by the Mayor, it shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the City Council. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the City Council meets at such time, he shall act subject to the directions and restrictions imposed by that body.

30-3-8 **TESTING OF DISASTER WARNING DEVICES.** The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

30-3-9 **MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS.** The coordinator for emergency management operations may, in collaboration with other public agencies within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-3-3** of this Code, it shall be the duty of each local and department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements.

30-3-10 **COMMUNICATIONS.** The local Emergency Management Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

30-3-11 **IMMUNITY.** Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency management operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

30-3-12 **PROFESSIONS, TRADES AND OCCUPATIONS.** If such disaster as is described in **Section 30-3-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid

in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the coordinator of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality.

30-3-13 **APPROPRIATIONS AND LEVY OF TAX.** The City Council may make appropriations for emergency management operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The City Council may also levy for emergency management operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

30-3-14 **AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.** Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its City Council, may accept such offer and upon such acceptance the Mayor or the City Council may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

30-3-15 **ORDERS, RULES AND REGULATIONS.**
(A) The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him pursuant to the provisions of this Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-3-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The Emergency Management Agency established pursuant to this Code, and the coordinator thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois Emergency Management Agency Act. The local Emergency Management Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

30-3-16 **UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL.** In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency management agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies

are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency management agency.

30-3-17 **SEVERABILITY.** If any provision of this Code or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect such other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Code are hereby declared to be severable.

30-3-18 **NO PRIVATE LIABILITY.**

(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B) Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the municipality under the provisions of this Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

30-3-19 **SUCCESSION.** In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the coordinator of the emergency management agency shall succeed to the duties and responsibilities of the Mayor.

30-3-20 **COMPENSATION.** The City Council, by its annual appropriations ordinance, may provide for the payment of the salary of the coordinator and such other office staff and personnel as may be expressly provided for in the ordinance. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency.

30-3-21 **PERSONNEL OATH.** Each person, whether compensated or non-compensated, who is appointed to serve in any capacity in the municipal Emergency Management Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Management Agency before a person authorized to administer oaths in this municipality, which oath shall be filed with the coordinator of the Emergency Management Agency, and which oath shall be substantially as follows:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the City, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

30-3-22 **EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.**

(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or City Council, as provided herein in **Section 30-3-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or City Council shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-3-23 **PENALTY.** Any person convicted of violating this Code or any order thereunder shall be punished, upon conviction, by a fine as provided by **Section 1-1-20** of this Code.

(See 20 ILCS Sec. 3305/1 et seq.)

ARTICLE IV

AMBULANCE SERVICE

30-4-1 **AMBULANCE SERVICE RATES.** The following rates shall apply to all parties receiving services from the City's Ambulance Department commencing **July 1, 2011**:

(A) **Basic Life Support Rate:** \$687.15 per call for in-district residents; \$738.05 per call for out-of-district residents

(B) **Advanced Life Support Rate:** \$788.95 per call for in-district residents; \$839.85 per call for out-of-district residents

(C) **Advanced Life Support II Rate:** \$839.85 per call for in-district residents; \$890.75 per call for out-of-district residents

(D) **Non-Emergency Rate:** \$636.25 per call for in-district residents; \$687.15 per call for out-of-district residents

(E) **Specialty Care Transit:** \$890.75 per call for in-district residents; \$941.65 per call for out-of-district residents

(F) **ALS Assist:** \$250.00 per call for in-district residents; \$300.00 per call for out-of-district residents

(G) **Mileage Rate for all Classes of Service:** \$12.50 per loaded mile

Beginning **May 1, 2012**, rates for the City's Ambulance Service shall increase annually in accordance with the Consumer Price Index (CPI). Mileage rates may increase annually, commencing **May 1, 2012**, in accordance with increases in the Consumer Price Index.

(Ord. No. 1232; 06-21-11)

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 Public Works 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 Public Works shall exercise a general supervision over the affairs of the Street Department. It shall ascertain the needs and conditions thereof and shall, from time to time, report the same to the Mayor and City Council.

ARTICLE II - GENERAL REGULATIONS

33-2-1 **UNDERMINING.** No person shall undermine in any manner, any street or any other ground or real estate situated in the City or belonging to any private person.

33-2-2 **OPEN DOORS.** No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the City for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

33-2-3 **REPAIRING SIDEWALKS, ETC.** Whenever any sidewalk, pavement, or cellar door on the same becomes worn out or out of repair, or is torn up or broken and uneven, it shall be the duty of the Superintendent to immediately report such fact to the Mayor or Public Works Committee, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay.

33-2-4 **STAIRWAY - RAILING.** Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

STREET REGULATIONS 33-2-5

33-2-5 **CLOSING STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

33-2-6 **SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the City, unless he has written approval of the City Council. **(See 65 ILCS Sec. 5/11-80-17)**

33-2-7 **VEHICLES AND SKATEBOARDS ON SIDEWALKS.** No person shall operate any skateboard or motor vehicle on or over any sidewalk, except in crossing the same to go into a yard or parking lot.

33-2-8 **DEPOSITS ON SIDEWALKS AND STREETS.** It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four feet (4')**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes.**

33-2-9 **OBSTRUCTING STREET.**

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the City, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(See 65 ILCS Sec. 5/11-80-3)**

33-2-10 **RAINWATER DRAINS.** It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the City Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Superintendent and no such permit shall be issued unless he shall have found that the City Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm water drain

or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the City.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the City and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement.

33-2-11 **BUILDING MATERIALS IN STREET.** The Street Superintendent may move any obstruction on any street or sidewalk of the City, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(See 65 ILCS Sec. 5/11-80-3)**

33-2-12 **MERCHANDISE ON PUBLIC STREET.** It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the City Council. **(See 65 ILCS Sec. 5/11-80-3)**

33-2-13 **ENCROACHMENTS.** It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-14 **POSTING BILLS.** No person shall erect or maintain any sign, sign post, pole, pillar, banner, or flag, or to post any handbill or mark, stencil, or paint any advertisement or sign upon any utility pole, tree, post, curb, sidewalk, or other structure on, across, or extending into any public street sidewalk, alley, parkway, public planting strip, or other municipal property, except:

(A) The United States flag when securely fastened and properly displayed according to law;

(B) Legal notice posted according to law;

(C) Street names, traffic signs, and other directional signs erected by public authority having jurisdiction;

(D) Church and civic organization directory and designation signs when specifically authorized by the City Council and placed at the direction of the Street Committee;

(E) Signs advertising the business of the proprietor carried on in the premises to which the sign is attached and which may extend over the sidewalk area at not less than **twelve (12) feet** above the level of the sidewalk and when securely fastened; or

(F) Temporary signs and banners for special occasions when specifically authorized by the City Council upon reasonable terms and conditions deemed necessary to protect the public interest.

STREET REGULATIONS 33-2-15

33-2-15 **SIGNS ON POLES.** No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

33-2-16 **INJURY TO NEW PAVEMENTS.** It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement or curb while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement or curb, that is not fully cured or bridged properly.

33-2-17 **BARBED-WIRE FENCES.** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **fifty (50) feet** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **eight (8) feet** above the level of such public place. **(See Zoning Code)**

33-2-18 **BURNING ON PUBLIC STREETS.** It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

33-2-19 **GRASS MOWING.** Property owners and/or their tenants shall be jointly and separately responsible for mowing the grass or weeds between the property lines and the adjoining street surfaces. The height of the grass or weeds shall not exceed **eight (8) inches**.

33-2-20 **PLAYING IN STREETS.** No person shall play any game or amusement or allow their children to play any game or amusement in any public street in the City, except small children may be allowed to play upon sidewalks in residential areas.

33-2-21 **HOUSE NUMBERING.** All residents and owners of dwellings and/or buildings in the City are required to conspicuously display a numbered address on all living units and businesses in accordance with the regulations of the 9-1-1 Board so that public safety vehicles and postal authorities may readily identify the location. The numbers shall be at least **three (3) inches** in height.

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

STREET REGULATIONS 33-3-8

or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Street Superintendent so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct.

33-3-8 **GAS PIPES.** Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

(See 65 ILCS 5/11-80-2)

ARTICLE IV

CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

33-4-1 PURPOSE AND SCOPE.

(A) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the City rights-of-way and the City as a whole.

(B) **Intent.** In enacting this Article, the City intends to exercise its authority over the rights-of-way in the City and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of the City's utilities and of other utilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
- (5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
- (6) preserve the character of the neighborhoods in which facilities are installed;
- (7) preserve open space, particularly the tree-lined parkways that characterize the City's residential neighborhoods;
- (8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
- (9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(C) **Facilities Subject to this Article.** This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the City. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

(D) **Franchises, Licenses, or Similar Agreements.** The City, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the City rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the City enter into such an agreement. In such an agreement, the City may provide for terms and conditions inconsistent with this Article.

(E) **Effect of Franchises, Licenses, or Similar Agreements.**

- (1) **Utilities Other Than Telecommunications Providers.** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the City, such franchise, license or similar agreement shall govern and control

during the term of such agreement and any lawful renewal or extension thereof.

- (2) **Telecommunications Providers.** In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the City and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(F) **Conflicts With Other Articles or Chapters.** This Article supersedes all Articles or Chapters or parts of Articles or Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(G) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(H) **Sound Engineering Judgment.** The City shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the City so determines. Nothing herein shall be construed to limit the ability of the City to regulate its rights-of-way for the protection of the public health, safety and welfare.

33-4-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

"AASHTO": American Association of State Highway and Transportation Officials.

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

"Backfill": The methods or materials for replacing excavated material in a trench or pit.

"Bore" or "Boring": To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

"Cable Operator": That term as defined in 47 U.S.C. 522(5).

"Cable Service": That term as defined in 47 U.S.C. 522(6).

"Cable System": That term as defined in 47 U.S.C. 522(7).

"Carrier Pipe": The pipe enclosing the liquid, gas or slurry to be transported.

"Casing": A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

"Clear Zone": The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

"Coating": Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

"Conductor": Wire carrying electric current.

“Conduit”: A casing or encasement for wires or cables.

“Construction” or “Construct”: The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

“Cover”: The depth of earth or backfill over buried utility pipe or conductor.

“Crossing Facility”: A facility that crosses one or more right-of-way lines of a right-of-way.

“Disrupt the Right-of-Way”: For the purposes of this Article, any work that obstructs the right-of-way or causes a material adverse affect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

“Emergency”: Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

“Encasement”: Provision of a protective casing.

“Engineer”: The City Engineer or his or her designee.

“Equipment”: Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

“Excavation”: The making of a hole or cavity by removing material, or laying bare by digging.

“Extra Heavy Pipe”: Pipe meeting ASTM standards for this pipe designation.

“Facility”: All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term “facility” shall not include any facility owned or operated by the City.

“Freestanding Facility”: A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

“Frontage Road”: Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

“Hazardous Materials”: Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the City Engineer or Superintendent to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

“Highway Code”: The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

“Highway”: A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. “Highway” includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

“Holder”: A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

"Jacking": Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting": Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use": The use of pole lines, trenches or other facilities by two or more utilities.

"Major Intersection": The intersection of two or more major arterial highways.

"Occupancy": The presence of facilities on, over or under right-of-way.

"Parallel Facility": A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

"Parkway": Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut": The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee": That entity to which a permit has been issued pursuant to **Sections 33-4-4 and 33-4-5** of this Article.

"Practicable": That which is performable, feasible or possible, rather than that which is simply convenient.

"Pressure": The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

"Petroleum Products Pipelines": Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

"Prompt": That which is done within a period of time specified by the City. If no time period is specified, the period shall be **thirty (30) days**.

"Public Entity": A legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Restoration": The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

"Right-of-Way" or "Rights-of-Way": Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the City has the right and authority to authorize, regulate or permit the location of facilities other than those of the City. "Right-of-way" or "rights-of-way" shall not include any real or personal City property that is not specifically described in the previous two sentences and shall not include City buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

"Roadway": That part of the highway that includes the pavement and shoulders.

"Sale of Telecommunications at Retail": The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

"Security Fund": That amount of security required pursuant to **Section 33-4-10**.

"Shoulder": A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

"Sound Engineering Judgment": A decision(s) consistent with generally accepted engineering principles, practices and experience.

"Superintendent of Public Works": The Superintendent of Public Works or his or her designee, hereinafter referred to as "Superintendent".

"Telecommunications": This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

"Telecommunications Provider": Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

"Telecommunications Retailer": Means and includes every person engaged in making sales of telecommunication at retail as defined herein.

"Trench": A relatively narrow open excavation for the installation of an underground facility.

"Utility": The individual or entity owning or operating any facility as defined in this Article.

"Vent": A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Video Service": That term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

"Water Lines": Pipelines carrying raw or potable water.

"Wet Boring": Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

33-4-3 ANNUAL REGISTRATION REQUIRED. Every utility that occupies right-of-way within the City shall register on **January 1** of each year with the Superintendent, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-4-8** of this Article, in the form of a certificate of insurance.

33-4-4 PERMIT REQUIRED: APPLICATIONS AND FEES.

(A) **Permit Required.** No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any City right-of-way which:

- (1) changes the location of the facility;
- (2) adds a new facility;
- (3) disrupts the right-of-way (as defined in this Article), or
- (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Superintendent and obtaining a permit from the City therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the City and shall be filed in such number of duplicate copies as the City may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(C) **Minimum General Application Requirements.** The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- (1) The utility's name and address and telephone and telecopy numbers;
- (2) The applicant's name and address, if different than the utility, its telephone, telecopy number, e-mail address, and its interest in the work;
- (3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.
- (4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- (5) Evidence that the utility has placed on file with the City:
 - (a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - (b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the City and shall promote protection of the safety and convenience of the public. Compliance with ICC

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regulations for emergency contingency plans constitutes compliance with this Section unless the City finds that additional information or assurances are needed;

- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
- (7) Evidence of insurance as required in **Section 33-4-8** of this Article;
- (8) Evidence of posting of the security fund as required in **Section 33-4-10** of this Article;
- (9) Any request for a variance from one or more provisions of this Article (**See Section 33-4-21**); and
- (10) Such additional information as may be reasonably required by the City.

(D) **Supplemental Application Requirements for Specific Types of Utilities.** In addition to the requirements of paragraph (C) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- (1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control have been satisfied; or
- (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(E) **Applicant's Duty to Update Information.** Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the City within **thirty (30) days** after the change necessitating the amendment.

(F) **Application Fees.** Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a base fee in the amount of \$100.00. Additional application review costs will vary with the complexity of the project and will be determined on a case by case basis and shall be paid prior to issuance of final permit. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

33-4-5 ACTION ON PERMIT APPLICATIONS.

(A) **City Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Superintendent within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall reject such application in writing, stating the reasons therefor. If the Superintendent is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Superintendent shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Superintendent, that the construction proposed under the application shall be in full compliance with the requirements of this Article.

(B) **Additional City Review of Applications of Telecommunications Retailers.**

- (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the City that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the City not less than **ten (10) days** prior to the commencement of work requiring no excavation and not less than **thirty (30) days** prior to the commencement of work requiring excavation. The Superintendent shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.
- (2) In the event that the Superintendent fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the City by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) days** after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.
- (3) Upon the provision of such specification by the City, where a permit is required for work pursuant to **Section 33-4-4** of this Article the telecommunications retailer shall submit to the City an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of paragraph (A) of this Section.

(C) **Additional City Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007.** Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted **forty-five (45) days** after submission to the City, unless otherwise acted upon by the City, provided the holder has complied with applicable City codes, ordinances, and regulations.

33-4-6 EFFECT OF PERMIT.

(A) Authority Granted; No Property Right or Other Interest Created.

A permit from the City authorizes a permittee to undertake only certain activities in accordance with this Article on City rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.

(B) Duration. No permit issued under this Article shall be valid for a period longer than **six (6) months** unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(C) Pre-Construction Meeting Required. No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the City with such City representatives in attendance as the City deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(D) Compliance With All Laws Required. The issuance of a permit by the City does not excuse the permittee from complying with other requirements of the City and applicable statutes, laws, ordinances, rules, and regulations.

33-4-7 REVISED PERMIT DRAWINGS. In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the City within **ninety (90) days** after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with **Section 33-4-21** of this Article. If the City denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

33-4-8 INSURANCE.

(A) Required Coverages and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the City, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs (1) and (2) below:

- (1)** Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:

- (a) **Five Million Dollars (\$5,000,000.00)** for bodily injury or death to each person;
 - (b) **Five Million Dollars (\$5,000,000.00)** for property damage resulting from any one accident; and
 - (c) **Five Million Dollars (\$5,000,000.00)** for all other types of liability;
- (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of **One Million Dollars (\$1,000,000.00)** for personal injury and property damage for each accident;
 - (3) Worker's compensation with statutory limits; and
 - (4) Employer's liability insurance with limits of not less than **One Million Dollars (\$1,000,000.00)** per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

(B) **Excess or Umbrella Policies.** The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

(C) **Copies Required.** The utility shall provide copies of any of the policies required by this Section to the City within **ten (10) days** following receipt of a written request therefor from the City.

(D) **Maintenance and Renewal of Required Coverages.** The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until **thirty (30) days** after receipt by the City, by registered mail or certified mail, return receipt requested, of a written notice addressed to the City Administrator of such intent to cancel or not to renew."

Within **ten (10) days** after receipt by the City of said notice, and in no event later than **ten (10) days** prior to said cancellation, the utility shall obtain and furnish to the City evidence of replacement insurance policies meeting the requirements of this Section.

(E) **Self-Insurance.** A utility may self-insure all or a portion of the insurance coverage and limit requirements required by paragraph (A) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under paragraph (A), or the requirements of paragraphs (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the City evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under paragraph (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(F) **Effect of Insurance and Self-Insurance on Utility's Liability.** The legal liability of the utility to the City and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

(G) **Insurance Companies.** All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. All insurance carriers and surplus line carriers shall be rates "A-" or better and of a class size "X" or higher by A.M. Best Company.

33-4-9 INDEMNIFICATION. By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the City and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the City, its officials, officers, employees, agents or representatives.

33-4-10 SECURITY.

(A) **Purpose.** The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve a security for:

- (1) The faithful performance by the permittee of all the requirements of this Article;
- (2) Any expenditure, damage, or loss incurred by the City occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the City issued pursuant to this Article; and
- (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the City may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the City must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the City from the permittee pursuant to this Article or any other applicable law.

(B) **Form.** The permittee shall provide the Security Fund to the City in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the City, or an unconditional letter of credit in a form acceptable to the City. Any surety bond or letter of credit provided pursuant to this paragraph shall, at a minimum:

- (1) Provide that it will not be canceled without prior notice to the City and the permittee;

- (2) Not require the consent of the permittee prior to the collection by the City of any amounts covered by it; and
- (3) Shall provide a location convenient to the City and within the State of Illinois at which it can be drawn.

(C) **Amount.** The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Superintendent, and may also include reasonable, directly related costs that the City estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the City, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Superintendent may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The City, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the City for such amount within the **fourteen (14) day** notice period. Withdrawals may be made if the permittee:

- (1) Fails to make any payment required to be made by the permittee hereunder;
- (2) Fails to pay any liens relating to the facilities that are due and unpaid;
- (3) Fails to reimburse the City for any damages, claims, costs or expenses which the City has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- (4) Fails to comply with any provision of this Article that the City determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the City that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

(F) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the City, upon written request for said withdrawal to the City, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in paragraph (C) of this Section.

(G) **Closing and Return of Security Fund.** Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the City for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the City to the extent necessary to cover any reasonable costs, loss or damage incurred by the City

as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(H) **Rights Not Limited.** The rights reserved to the City with respect to the Security Fund are in addition to all other rights of the City, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the City may have. Notwithstanding the foregoing, the City shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

33-4-11 PERMIT SUSPENSION AND REVOCATION.

(A) **City Right to Revoke Permit.** The City may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

- (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- (2) Noncompliance with this Article;
- (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice of Revocation or Suspension.** The City shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this **Section 33-4-11**.

(C) **Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.** Upon receipt of a written notice of revocation or suspension from the City, the permittee shall have the following options:

- (1) Immediately provide the City with evidence that no cause exists for the revocation or suspension;
- (2) Immediately correct, to the satisfaction of the City, the deficiencies stated in the written notice, providing written proof of such correction to the City within **five (5) working days** after receipt of the written notice of revocation; or
- (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the City providing written proof of such removal to the City within **ten (10) days** after receipt of the written notice of revocation.

The City may, in its discretion, for good cause shown, extend the time periods provided in this paragraph.

(D) **Stop Work Order.** In addition to the issuance of a notice of revocation or suspension, the City may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within paragraph (A) of this Section.

(E) **Failure or Refusal of the Permittee to Comply.** If the permittee fails to comply with the provisions of paragraph (C) of this Section, the City or its designee may, at the option of the City:

- (1) correct the deficiencies;

- (2) upon not less than **twenty (20) days** notice to the permittee, remove the subject facilities or equipment; or
- (3) after not less than **thirty (30) days** notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the City. The permittee shall be liable in all events to the City for all costs of removal.

33-4-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(A) **Notification of Change.** A utility shall notify the City no less than **thirty (30) days** prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

(B) **Amended Permit.** A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the City's right-of-way.

(C) **Insurance and Bonding.** All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

33-4-13 GENERAL CONSTRUCTION STANDARDS.

(A) **Standards and Principles.** All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

- (1) Standard Specifications for Road and Bridge Construction;
- (2) Supplemental Specifications and Recurring Special Provisions;
- (3) Highway Design Manual;
- (4) Highway Standards Manual;
- (5) Standard Specifications for Traffic Control Items;
- (6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- (7) Flagger's Handbook; and
- (8) Work Site Protection Manual for Daylight Maintenance Operations.

(B) **Interpretation of Municipal Standards and Principles.** If a discrepancy exists between or among differing principles and standards required by this Article, the Superintendent shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Superintendent shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

33-4-14 **TRAFFIC CONTROL.**

(A) **Minimum Requirements.** The City's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(B) **Warning Signs, Protective Devices, and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(C) **Interference with Traffic.** All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(D) **Notice When Access is Blocked.** At least **forty-eight (48) hours** prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to **Section 33-4-20** of this Article, the utility shall provide such notice as is practicable under the circumstances.

(E) **Compliance.** The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the City.

33-4-15 **LOCATION OF FACILITIES.**

(A) **General Requirements.** In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this paragraph.

(1) **No Interference with City Facilities.** No utility facilities shall be placed in any location if the Superintendent determines that the proposed location will require the relocation or displacement of any of the City's utility facilities or will otherwise interfere with the operation or maintenance of any of the City's utility facilities.

(2) **Minimum Interference and Impact.** The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.

(3) **No Interference with Travel.** No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.

(4) **No Limitations on Visibility.** No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.

(5) **Size of Utility Facilities.** The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

(B) **Parallel Facilities Located Within Highways.**

(1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:

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- (a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
 - (b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of **two (2) feet (0.6m)** behind the face of the curb, where available;
 - (c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of **four (4) feet (1.2m)** outside the outer shoulder line of the roadway and are not within the clear zone;
 - (d) No pole is located in the ditch line of a highway; and
 - (e) Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.
- (2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:
- (a) The facility is located as near the right-of-way line as practicable and not more than **eight (8) feet (2.4m)** from and parallel to the right-of-way line;
 - (b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - (c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-way line or as near as practicable.
- (C) **Facilities Crossing Highways.**
- (1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of City highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
 - (2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
 - (3) **90 Degree Crossing Required.** Crossing facilities shall cross at or as near to a **ninety (90) degree** angle to the centerline as practicable.
 - (4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:

- (a) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
 - (b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and
 - (c) Overhead crossings at major intersections are avoided.
- (5) **Underground Power or Communication Facility.** An underground power or communication facility may cross a highway only if:
- (a) The design materials and construction methods will provide maximum maintenance-free service life; and
 - (b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) **Markers.** The City may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(D) **Facilities to be Located Within Particular Rights-of-Way.** The City may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(E) **Freestanding Facilities.**

- (1) The City may restrict the location and size of any freestanding facility located within a right-of-way.
- (2) The City may require any freestanding facility located within a right-of-way to be screened from view.

(F) **Facilities Installed Above Ground.** Above ground facilities may be installed only if:

- (1) No other existing facilities in the area are located underground;
- (2) New underground installation is not technically feasible; and
- (3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

(G) **Facility Attachments to Bridges or Roadway Structures.**

- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are

volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

- (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - (a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - (b) The type, length, value, and relative importance of the highway structure in the transportation system;
 - (c) The alternative routings available to the utility and their comparative practicability;
 - (d) The proposed method of attachment;
 - (e) The ability of the structure to bear the increased load of the proposed facility;
 - (f) The degree of interference with bridge maintenance and painting;
 - (g) The effect on the visual quality of the structure; and
 - (h) The public benefit expected from the utility service as compared to the risk involved.

(H)

Appearance Standards.

- (1) The City may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

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CONSTRUCTION METHODS AND MATERIALS.

(A)

Standards and Requirements for Particular Types of

Construction Methods.

(1) **Boring or Jacking.**

- (a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Superintendent from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and

- maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- (b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.
 - (c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.
 - (d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
 - (e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the City to be preserved shall be bored under or around the root system.
- (2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 IDOT's "Standard Specifications for Road and Bridge Construction".
- (a) **Length.** The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Superintendent.
 - (b) **Open Trench and Excavated Material.** Open trench and wind rowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
 - (c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the City to be preserved.
- (3) **Backfilling.**
- (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.

- (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Superintendent, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Superintendent.
- (4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be discouraged but may be permitted only upon location specific approval by the Superintendent and only if that portion of the roadway is closed to traffic.
 - (a) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Superintendent.
 - (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the City.
 - (c) All saw cuts shall be full depth.
 - (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a Common Ground Alliance locate.
- (5) **Encasement.**
 - (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the City.
 - (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
 - (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or City approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the City. Bell and spigot type pipe shall be encased regardless of installation method.

- (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
 - (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair and
 - (ii) cathodic protection of the pipe is provided;
 - (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- (6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Electric Lines	30 inches (0.8m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6m, as Determined by City)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B) **Standards and Requirements for Particular Types of Facilities.**

- (1) **Electric Power or Communication Lines.**
 - (a) **Code Compliance.** Electric power or communications facilities within City rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.
 - (b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

- (c) **Underground Facilities.**
 - (i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.
 - (ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:
 - a. the crossing is installed by the use of “moles”, “whip augers”, or other approved method which compress the earth to make the opening for cable installation or
 - b. the installation is by the open trench method which is only permitted prior to roadway construction.
 - (iii) Cable shall be grounded in accordance with the National Electrical Safety Code.
 - (iv) **Burial of Drops.** All temporary service drops placed between **November 1** of the prior year and **March 15** of the current year, also known as snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the City. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within **ten (10) business days** after placement.
- (2) **Underground Facilities Other Than Electric Power or Communication Lines.** Underground facilities other than electric power or communication lines may be installed by:
 - (a) The use of “moles”, “whip augers”, or other approved methods which compress the earth to move the opening for the pipe;
 - (b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - (c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - (d) tunneling with vented encasement, but only if installation is not possible by other means.
- (3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a City approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT’s “Standard Specifications for Road and Bridge Construction”, and all other applicable laws, rules, and regulations.

- (4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- (5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois".
- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Superintendent, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

(C)

Materials.

- (1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standard Specifications for Road and Bridge Construction", the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
- (2) **Material Storage on Right-of-Way.** No material shall be stored on the right-of-way without the prior written approval of the Superintendent. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the City.
- (3) **Hazardous Materials.** The plans submitted by the utility to the City shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D)

Operational Restrictions.

- (1) Construction operations on rights-of-way may, at the discretion of the City, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.

- (2) These restrictions may be waived by the Superintendent when emergency work is required to restore vital utility services.
- (3) Unless otherwise permitted by the City, the hours of construction are from **6:00 A.M. to 6:00 P.M.**

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the City shall contact Common Ground Alliance and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The City will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the City or by Common Ground Alliance, a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

33-4-17 VEGETATION CONTROL.

(A) **Electric Utilities - Compliance with State Laws and Regulations.**

An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the City as permitted by law.

(B) **Other Utilities - Tree Trimming Permit Required.**

Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing the same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

(1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

(2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The City will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The City may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(C) **Specimen Trees or Trees of Special Significance.** The City may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

(D) **Chemical Use.**

(1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs

or vegetation in the City for any purpose, including the control of growth, insects or disease.

- (2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Superintendent that such spraying is the only practicable method of vegetation control.

33-4-18 REMOVAL, RELOCATION, OR MODIFICATION OF UTILITY FACILITIES.

(A) **Notice.** Within **ninety (90) days** following written notice from the City, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the rights-of-way.

(B) **Removal of Unauthorized Facilities.** Within **thirty (30) days** following written notice from the City, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
- (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(C) **Emergency Removal or Relocation of Facilities.** The City retains the right and privilege to cut or move any facilities located within the rights-of-way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(D) **Abandonment of Facilities.** Upon abandonment of a facility within the rights-of-way of the City, the utility shall notify the City within **ninety (90) days**. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the Superintendent determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

33-4-19 CLEANUP AND RESTORATION. The utility shall remove all excess material and restore all turf and terrain and other property within **ten (10) days** after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the City. This includes restoration of

entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Superintendent. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Superintendent for good cause shown.

33-4-20 MAINTENANCE AND EMERGENCY MAINTENANCE.

(A) **General.** Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the City and at the utility's expense.

(B) **Emergency Maintenance Procedures.** Emergencies may justify noncompliance with normal procedures for securing a permit:

- (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flags. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- (2) In an emergency, the utility shall, as soon as possible, notify the Superintendent or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the City police shall be notified immediately.
- (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(C) **Emergency Repairs.** The utility must file in writing with the City a description of the repairs undertaken in the right-of-way within **forty-eight (48) hours** after an emergency repair.

33-4-21 VARIANCES.

(A) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Superintendent as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.

(B) **Authority to Grant Variances.** The Superintendent shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

(C) **Conditions for Granting of Variance.** The Superintendent may authorize a variance only if the utility requesting the variance has demonstrated that:

- (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(D) **Additional Conditions for Granting of a Variance.** As a condition for authorizing a variance, the Superintendent may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

(E) **Right to Appeal.** Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Superintendent under the provisions of this Article shall have the right to appeal to the City Council, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the City Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The City Council shall commence its consideration of the appeal at the Board's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The City Council shall timely decide the appeal.

33-4-22 PENALTIES. Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it. **(See Section 1-1-20 for additional penalties.)**

33-4-23 ENFORCEMENT. Nothing in this Article shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Article.

(See 65 ILCS 5/11-80-1 et seq.)

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** No sidewalk shall be built above or below the established grade of this City, and in all cases where no grade is established, any person building a sidewalk shall build the same according to the instructions of the Committee of the City Council for the ward in which the same is to be built.

(B) **Notification of Owner.** In all cases where a sidewalk has been ordered to be laid by the City Council, the Superintendent shall notify the owner of the property, if known, describing in said notice the property along which such walk is to be laid, the material to be used and the width and length of the walk and the time in which the same must be built.

(C) **Refusal by Owner.** Whenever any walk has been ordered as provided in the preceding paragraph of this Article, the owner of the property along which said walk is ordered refuses or neglects to build the same, as notified, or if the owner thereof is unknown then an ordinance shall be passed and proceeding had for the construction of said walk in accordance with the statutes in such case made and provided.

(D) **Permit.** It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the City, or along any of the streets, alleys or public highways thereon, without first obtaining a permit from the City Council to do so.

(E) **Street Committee.** All such structures or improvements made in the City shall be made under and through the cooperation and direction of the Superintendent and the Street Committee.

(F) **Request for New Sidewalks.** Any owner of property annexed to the City prior to 1963, who desires new sidewalks constructed upon City property adjoining his premises, and who agrees to pay **fifty percent (50%)** of the cost of the labor and material for the construction of the sidewalks, shall file a written request with the City Clerk, giving the location of the property and the dimensions of the sidewalks requested. Upon approval of the request by the City Council, and the payment of **one-half (1/2)** of the cost of construction, the City shall construct the sidewalks. **(See 65 ILCS 5/11-80-13) (Ord. No. 231A; 04-23-63)**

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 Superintendent, giving the location of the property and the length of the curbs and gutters requested.

(B) **Cost to Owner.** If the funds are available and the City Council approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction and thereafter, the curb and gutter will be constructed by the City. The cost of the construction shall not include any engineering fees; these shall be paid by the City.

(C) **Approval by City Council.** The approval of the request for construction of curbs and gutters by the City Council shall be dependent upon the approval of funds, priority of projects and continuity of construction for the best benefit of the City as determined by the City Council.

(D) Construction of the curbs and gutters shall be in accordance with the standards established in the Subdivision Code. **(See Chapter 34, Section 34-3-6.3)**

(E) **Subdivisions.** This Section is not applicable to new subdivisions.
(See 65 ILCS 5/11-80-11)

33-5-3 STORM SEWERS.

(A) **Description of Storm Water Sewers.** Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders, or storm waters, rain waters, or other waters other than sanitary sewage.

(B) **Supervision.** The Superintendent 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 substances other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system.

(See 65 ILCS 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

33-6-2 **PERMIT FOR CULVERT.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the Superintendent.

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 BY PRIVATE PROPERTY OWNERS.** 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 **fourteen (14) gauge**, or of such other material as determined by the Street Department, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Superintendent. The person desiring the culvert shall purchase a culvert as provided herein and shall have it delivered on the site. The City shall install the culvert.

33-6-6 **COST OF INSTALLATION.** Any person installing or replacing a culvert shall, at his own expense, construct and install drainage inlet boxes in such form and manner as the Superintendent determines necessary depending on the conditions existing.

33-6-7 **BACKFILL COST.** Any person installing or replacing a culvert shall, at his own expense, provide and place such backfill material as the Superintendent determines necessary to complete the project.

(See 65 ILCS 5/11-80-7)

ARTICLE VII – DRIVEWAY CONSTRUCTION

33-7-1 **DEFINITIONS.** The following words used herein shall have the particular meaning as follows:

"APPLICANT". Applicant shall be the owner of the private premises which is served by the driveway or curb cut.

"PARKWAY". The parkway shall be all part of the public right-of-way lying between the property line and the back or outside of the curb, and if no curb, outside of the improved or traveled portion of the street, except that part occupied by a sidewalk.

"SIDEWALK". A sidewalk shall be that portion of the public right-of-way improved with Portland Cement or Asphaltic Concrete surface for pedestrians.

"STREET OR PUBLIC STREET". A street or public street is all of the public right-of-way lying between the property lines.

33-7-2 **PERMITS REQUIRED.** No person shall hereafter construct, build or establish in the City any driveway over or across any portion of a public street, sidewalk or parkway, or cut into any public street curb or gutter without first having obtained a written permit to do so from the Superintendent. The permit shall be obtained from the City Council where it is necessary to elevate or depress the established grade of a public sidewalk or parkway. All permits shall be conditioned upon full compliance with the standards established by this Code, except as otherwise authorized by resolution of the City Council in unusual or hardship cases.

Application for such permit shall be made in writing on forms furnished by the City at the office of the City Clerk. The application shall contain the name and address of the owner of the premises to be served by such driveway or curb cut, the name and address of the contractor, if any, other than the owner who shall do the work, and the proposed location and dimensions of such driveway or curb cut. Complete plans and specifications shall be submitted to the office of the City Clerk at least **forty-eight (48) hours** before the permit shall be issued. **(See Appendix "C")**

33-7-3 **PROTECTION OF PUBLIC.** The applicant or contractor, if any, shall be jointly responsible to see that at all times the work area is guarded with adequate barricades for the safety of persons or vehicles which may be upon the sidewalk or roadway abutting said premises and shall keep the same adequately lighted at night with red or amber lights or flares. The applicant and contractor shall be responsible for any damage that may be caused by the doing of the work, or the condition of the premises, and shall indemnify and save the City and its officers and employees harmless from all costs, claims, damages, expenses or liability of any form or nature whatsoever, including court costs and attorney's fees, that the City or any of them might suffer by reason of any claims, suits or causes of action by reason of injury to person or property, or death of any person sustained by reason of, or arising out of the doing of the work or the condition of the premises.

33-7-4 **INSPECTION.** All such work shall be subject to inspection by the Superintendent or his designated deputy and shall be done only in accordance with the plans and specifications submitted by applicant after approval by the Superintendent and in

accordance with the minimum specifications provided in this Code. Applicant shall advise the City Clerk of the time or times such work shall be undertaken.

33-7-5 RESTORATION. In the event use of any driveway or curb cut is abandoned or discontinued, the owner of the premises shall within **six (6) months** thereafter restore the sidewalk, curb and gutter, or street improvements and parkway to the same grades and condition as the sidewalk curb and gutter and parkway adjacent to such driveway or curb cut.

33-7-6 SPECIFICATIONS.

(A) Driveways for other than residential or dwelling house use shall be constructed of Portland Cement at least **six (6) inches** in thickness. Concrete shall meet the **Standard Specifications for Road and Bridge Construction of the Department of Public Works and Buildings, Division of Highways, Latest Edition.**

(B) Driveways for residential or dwelling house use shall be constructed in a manner and of a material equal at least to that existing for the paving in the public street adjacent thereto, except that where concrete pavement exists in the public street and bituminous surface is desired for the driveway. Such surface shall be permitted, provided it shall have a minimum depth of **two (2) inches** without loose material on top and has a base of water bound macadam at least **six (6) inches** thick and provided that a Portland Cement Concrete apron not less than **three (3) feet** in width be constructed between the existing concrete pavement and the proposed bituminous driveway surface.

(C) Where a driveway of any kind of material is constructed across a sidewalk space, it shall conform to the existing sidewalk grade, and if there is no existing sidewalk, then at such grade as the Superintendent shall establish. No adjustment in the grade or slope of any sidewalk may be done except on application therefor approved by the Superintendent. In no case shall slope of the sidewalk exceed **one (1) inch** per foot.

(D) Where a driveway of any kind of material is constructed across an existing sidewalk, said sidewalk shall be removed and replaced with Portland Cement Concrete for the full width of the driveway. This portion shall be not less than **six (6) inches** in thickness and constructed in accordance with the specifications on file in the office of the City Clerk.

(E) Macadam, gravel, cinder and other types of driveways, where permitted herein, shall be not less than **six (6) inches** thick, compacted depth.

(F) Where paving in the public street is of concrete, and a concrete driveway is constructed, a **one (1) inch** bituminous premoulded expansion joint with load transmission unit shall be placed approximately **three (3) feet** from the edge of the said concrete paving and normal to the center line of the driveway in accordance with sketches illustrating such construction on file with the Superintendent.

(G) The width of the driveways for other than residential or dwelling house shall not exceed **thirty (30) feet** at the outer or street edge of the sidewalk. Where **two (2)** or more adjoining driveways are provided for the same property, a safety island of not less than **ten (10) feet** at the outer or street side of the sidewalk shall be provided. Not more than **two (2)** such driveways shall be allowed to any one owner for any one piece of property on any one street for each **one hundred (100) feet** of continuous frontage thereof.

(H) The width of the driveways for single family residential or dwelling house shall be not less than **nine (9) feet** or more than **twenty-four (24) feet** at the outer or street edge of the sidewalk.

(I) The width of the driveway opening at the curb line shall not exceed the width of the driveway at the inner or property edge plus **twenty (20) feet**, nor be less than the width of the driveway at the inner or property edge of the sidewalk, plus **ten (10) feet**. In no instance should the radius be less than **three (3) feet** at curb corners, and this only when the driveway is flared; nor more than **ten (10) feet** when the driveway is at right angles to the street line. The center line of all driveways must be approximately at right angles to the curb line of the pavement in the public street for a distance of at least **ten (10) feet** from said curb line.

(J) All driveways shall be so graded between the gutter and the sidewalk that it will not be necessary to change the established grade of either and will not elevate or depress any portion of either. No part of said driveway shall extend beyond the curb line in such a manner as to change the grade of said gutter or obstruct the free flow of water in said gutter. Where elevations or depressions are necessary in the parkway strip between the curb and walk, said parkway shall be graded on both sides of the driveway to a distance sufficient to create a gradual ascent or descent. At no time shall the gradient exceed **one (1) foot** vertical to **ten (10) feet** horizontal.

(K) Combined curb and gutter and separate curbing shall be entirely removed for the full width of the driveway open at the curb line. If an existing joint in said curb is within **five (5) feet** of the end of the driveway opening, remove the existing curbing to said joint, otherwise cut said combined curb and gutter or separate curbing, making a neat edge truly at right angles to the edge of the pavement and truly vertical. Integral curbing, which is that type placed with the pavement and molded as an integral part of it, must be removed for the full depth from the top of the curb to the bottom of the pavement. No combined curb and gutter, straight curb or integral curb shall be removed within **five (5) feet** of a public crosswalk.

(L) Where driveways cross open ditches in the parkways, culverts shall be installed. Said culverts shall be of such size and shall be constructed of such material as determined by the Superintendent, depending on the conditions existing. In no instance shall the size of opening be less than that obtained by a **twelve (12) inch** diameter pipe. The length of culvert shall be determined by the following method: for ditch depths of **two (2) feet** or less, the culvert shall extend not less than **five (5) feet** beyond both edges of the driveway where it crosses the ditch. For each additional foot depth of ditch, add **two (2) feet** to the above figure, except that no culvert shall be less than **twenty (20) feet** long and except that where headwalls are constructed at the ends of the culvert, the length shall be as determined by the Superintendent.

(M) Where existing meter pits are in the area of a proposed driveway, the existing cast iron top shall be removed and turned in to the Superintendent. A heavier cover shall be furnished and set by the Superintendent, and the additional cost thereof shall be paid by the contractor.

(N) Where an existing catch basin is in the area of the proposed driveway, the tops shall be removed and replaced with a manhole top with perforated lid. Said top shall be set by the Street Department and the additional cost thereof shall be paid by the contractor.

(O) All driveways constructed or reconstructed over, across, or upon any public street or public parkway in the City shall be kept and maintained at all times in accordance with the provisions hereof by the persons so constructing, reconstructing or using the same as an adjunct or appurtenance to lands or properties immediately adjacent thereto.

33-7-7 **UNUSUAL OR HARDSHIP CONDITIONS.** Whenever an unusual situation exists, or where the strict application of these specifications would create a hardship or injustice to the property owner, or be impractical to use or develop the property consistent with these specifications in a reasonable manner, and if the public interest is not materially affected, the City Council, by resolution may permit a variation or deviation from these specifications to such extent and subject to such limitations and conditions as the City Council may deem proper under the circumstances.

(See 65 ILCS 5/11-80-2)

ARTICLE VIII - HOUSE NUMBERING

33-8-1 **CHART.** The City Clerk shall keep a chart showing the proper street number of every lot in the City which shall be open to inspection by anyone interested.

33-8-2 **NUMBERS ON HOUSES.** It shall be the duty of the owners and occupants of every house in the City to have placed thereon in a place visible from the street, figures at least **two and one-half (2 1/2) inches** high, showing the number of the house; any person, firm or corporation failing to so number any house, building or other structure occupied by him, or if after receiving notice to do so from the Clerk, shall continue in his failure to so number such house, building or structure shall be fined pursuant to the provisions of **Division I of Chapter I** of this Code.

ARTICLE IX - MOVING BUILDINGS

33-9-1 **PERMIT REQUIRED.** No person, firm or corporation shall move any building on, through, or over any street, alley, sidewalk or other public place in the City without having obtained a permit therefor from the City Council. Applications for such permits shall be made in writing to the Clerk and shall state thereon the proposed route and the number of days it is intended that the building shall occupy any portion of any street, alley, sidewalk, or other public place.

33-9-2 **APPROVAL - FEE.** Upon approval of the intended route by the City Council, a fee of **Five Dollars (\$5.00)** for each day or fraction thereof that is intended that the building shall occupy any such portion of any such public place shall be paid to the Clerk and the permit issued. Additional payment of **Ten Dollars (\$10.00)** for each day or fraction thereof over and above the time stated on the permit during which any building shall occupy any such place shall be paid.

33-9-3 **BOND.** Every person, firm or corporation applying for a permit under this Article shall submit with his application a cash bond with a lawful corporate surety to be approved by the City Council, conditioned on his compliance with all the provisions of this Article and agreeing to pay and holding the City harmless from any claim which may be made against it by reason of the occupation of any street, alley, sidewalk or other public place by the building or structure moved.

33-9-4 **LIGHTS AND WARNINGS.** Whenever a street or alley is blocked by a house or structure which is being moved, warnings to that effect shall be placed by the Police Department, so as to warn vehicles and persons from entering that portion of the street so blocked.

The person, firm or corporation moving any building through the streets, shall keep warning signs and lanterns or lights on such building so as to guard against any person or vehicle from colliding with it.

33-9-5 **WIRES - CUTTING.** Whenever it shall be necessary to interfere with wires or cables of a public utility in moving a building, the terms of any special or franchise ordinance governing shall apply and the bond therein specified shall be given. If no such terms apply, then the Mayor shall estimate the expense of fixing the wires and the bond to be given to cover such expenses.

ARTICLE X - SNOW REMOVAL

33-10-1 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this Article:

"BUSINESS DAY" is any day not a Sunday or a National Holiday.

"BUSINESS DISTRICT" shall include all those areas zoned for business, commercial and industrial purposes in the Zoning Code and accompanying map, as amended.

"BUSINESS HOURS" are the hours between **eight o'clock (8:00) A.M.** and **five o'clock (5:00) P.M.** on any business day.

"ROADWAY" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

"SIDEWALK" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

"STREET" or "HIGHWAY" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

33-10-2 **SNOW AND ICE TO BE REMOVED FROM SIDEWALKS BY PRIVATE PERSONS.**

(A) Every person, partnership, corporation, joint-stock company, or syndicate in charge or control of any building or lot of land within the City, fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee, or otherwise shall remove and clear away, or cause to be removed and cleared away, snow and ice from a path from so much of sidewalk as is in front or abuts on said building or lot of land. Snow and ice shall be so removed from sidewalks in all business districts within the City by **twenty-four (24) hours** after the cessation of any fall of snow, sleet or freezing rain. The path required to be cleared in the business district shall be **six (6) feet** in width, or the whole width of the sidewalk, whichever is smaller.

(B) However, in the event snow and ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person or entity charged with its removal shall, within the time mentioned in subsection (A) herein, cause enough sand, cinders or other abrasive to be put on the sidewalk to make travel thereon reasonably safe; and shall then, as soon thereafter as weather permits, cause a path in said sidewalk of at least **six (6) feet** in width to be thoroughly cleaned.

33-10-3 **DEPOSITING OF SNOW AND ICE RESTRICTED.** No person, partnership, corporation, joint-stock company, or syndicate shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts.

33-10-4 **MAYOR'S AUTHORITY.** The Mayor is hereby authorized on behalf of the City to cause sidewalks to be cleared upon the request of the person or entity charged with snow and ice removal. Any person or entity whose sidewalk is cleared pursuant to this Section shall reimburse the City for the costs of such clearing.

ARTICLE XI – EROSION CODE

33-11-1 EROSION CONTROL. Because of the possibility that excessive quantities of soil will erode from areas undergoing subdivision or development and the construction of related improvements, this Code requires the use of specific erosion control measures. Sediment from soil erosion can reduce the channel capacity of waterways, thereby limiting their use for many beneficial purposes and resulting in increased chances of flooding, a risk to public health and safety. Sediment can also clog sewers and ditches, pollute and silt rivers, streams, lakes, and reservoirs, and necessitate costly repairs to gullies, washed out fills, and embankments.

In order to help safeguard persons, protect property, prevent damage to the environment, and promote the public welfare, the provisions of this Section guide, regulate and control the design, construction, use and maintenance of any development which disturbs or breaks the topsoil or otherwise results in the movement of earth on land situated within the City.

Any person, partnership or corporation convicted of violating any of the provisions of the erosion control provisions of this Code shall be required to restore the affected site to the condition existing prior to commission of the violation, or to reimburse the City for the expense of such restoration.

(Also see Section 34-2-5(I)(J))

33-11-2 GENERAL EROSION CONTROL PROVISIONS.

(A) Whenever feasible, natural contours should be followed as closely as possible in areas of steep slopes where high cuts and fills might otherwise be required so that the design of every subdivision is consistent with the natural limitations presented by topography and soil, and so to create the least potential for soil erosion.

(B) Wherever possible, neutral vegetation should be retained and protected and areas immediately adjacent to neutral watercourses should be left undisturbed.

(C) The smallest practical area of land should be exposed for the shortest practical time during development.

(D) During development, the Subdivider/Developer shall install temporary erosion control measures to prevent siltation of adjacent streams, roads and property.

(E) The Subdivider/Developer shall install and maintain appropriate permanent devices, such as sediment basins, debris basins, desilting basins, silt traps, filters, rip rap, or energy dissipaters, in order to prevent long term erosion and siltation and to remove sediment from run off waters.

(F) The Subdivider/Developer shall select erosion and sedimentation control measures based upon an assessment of the probable frequency of climatic and other events likely to contribute to erosion, and upon an evaluation of the risk, cost, and benefits involved.

(G) In the design of the erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.

(H) Provision shall be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainage ways should be designed so that their final gradients and the resultant velocities of discharges will not create additional erosion.

(I) Permanent vegetation and structures should be installed as soon as practical during development, and in no case exceed more than **ninety (90) days**.

33-11-3 PENALTIES.

(A) Any person who violates, disobeys, omits, neglects, refuses to comply with, or who resists enforcement of any provisions of the erosion control sections, shall be guilty of a civil offense punishable by a fine only of not less than **One Hundred Dollars (\$100.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs, for each offense. **(See Section 1-1-20)**

(B) Each day that a violation continues after notification is given thereof, shall be considered a separate offense.

(C) Notification shall be by regular mail from the City to the last known mailing address of the violator.

(D) Nothing contained in this Section shall prevent the City from taking any other lawful action that may be necessary to secure compliance with this Article.

(Ord No. 996; 10-17-00)

CHAPTER 35

TREE CODE

35-1-1 TITLE. This Chapter shall be known and may be cited as the "Breese Tree Code" of Breese, Illinois.

35-1-2 PURPOSE AND INTENT.

(A) **Purpose.** It is the purpose of this Code to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within Breese, Illinois.

(B) **Intent.** It is the intent of the City Council of Breese, Illinois that the terms of this Code shall be construed so as to promote:

- (1) the planting, maintenance, restoration, and survival of desirable trees, shrubs and other plants within the City; and
- (2) the protection of community residents from personal injury and property damage, and the protection of Breese from property damage, caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants located within the community.

35-1-3 DEFINITIONS. As used within this Code, the following terms shall have the meanings set forth in this Section:

"ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE FOR BREESE" (hereinafter, "Arboricultural Specifications Manual"). A manual prepared by the Arborist pursuant to the ordinance containing regulations and standards for the planting, maintenance and removal of trees, shrubs and other plants upon City owned property.

"ARBORIST". The City Arborist of Breese, Illinois.

"CITY-OWNED PROPERTY". Property within the City limits of Breese, Illinois and;

- (A) owned by the City in fee simple absolute, or
- (B) implied or expressly dedicated to the public for present or future use for purposes of vehicular or pedestrian traffic, or for public easements.

"PROPERTY OWNER". The record owner or contract purchaser of any parcel of land.

"TREES, SHRUBS, AND OTHER PLANTS". All vegetation, woody or otherwise, except lawn grass and flowers less than **twenty-four (24) inches** in height.

35-1-4 THE BREESE TREE COMMISSION; ESTABLISHMENT, COMPOSITION, APPOINTMENT OF MEMBERS, DUTIES.

(A) **Establishment.** The Breese Tree Commission (hereinafter "Tree Commission") is hereby established. Its functions and duties are limited to those set forth in this Code.

(B) **Composition.** The Tree Commission shall be composed of **eight (8)** commissioners. **Five (5)** commissioners shall be appointed by the Mayor with the approval of the Council. These **five (5)** commissioners shall serve without pay and shall reside within the City of Breese, Illinois. The remaining **three (3)** commissioners shall be ex-officio commissioners and shall not vote. For example, the **three (3)** ex-officio commissioners shall be: the Director of Public Works, the Director of Parks and Recreation of the Breese Park District or his/her representative, and the Arborist. Subject to the exceptions in paragraph (C), immediately below, each commissioner of the Tree Commission shall serve a term of **three (3) years**.

(C) **Appointment of Members.** **One (1)** of the **five (5)** commissioners initially appointed to the Tree Commission, who is not an ex-officio member, shall serve for a term of **one (1) year; two (2)** of the **five (5)** commissioners initially appointed shall serve for a term of **three (3) years**. Term shall start on a common date. Determination of the length of terms of the **five (5)** commissioners initially appointed shall be by lot. The Mayor shall designate the Chairperson of the Tree Commission.

(D) **Expiration of Vacation of Terms.** Within **thirty (30) days** following the expiration of the term of any appointed commissioner, a successor shall be appointed by the Mayor with the approval of the Council, and the successor shall serve for a term of **three (3) years**. Should any commissioner resign or be removed from the Tree Commission, a successor shall be appointed by the Mayor and shall serve for the unexpired period of the vacated term. A member of the Tree Commission may be removed by the Mayor with the approval of a majority of the Council.

(E) **Duties.** The Tree Commission shall perform the following duties:

- (1) Within reasonable time after the appointment of the Tree Commission, upon call of the Chairperson of the Tree Commission, the Tree Commission shall meet and adopt rules of procedure for regular and special meetings to fulfill the duties imposed upon it by this Code.
- (2) The Tree Commission shall advise and consult the Arborist on any matter pertaining to the Breese Tree Code and its enforcement. The topics under which this advice and consultation may be given may include, but are not limited to, any of the following:
 - (a) amendments to the Code and alterations or revisions to the Arboricultural Specifications Manual, and alterations or revisions of the Urban Forestry Plan;
 - (b) policy concerning selection, planting, maintenance, and removal of trees, shrubs, and other plants within the City;

- (c) allocation of funds to the Arbor Division, and expenditures of funds by the Arbor Division;
 - (d) establishment of educational and informational programs;
 - (e) development of policies and procedures regarding the Arborist's duties;
 - (f) issuance of permits required by this Code.
- (3) The Tree Commission, upon the request of any person who disagrees with the decision of the Arborist, shall hear all issues of the disputes which arise between the City Arborist and any such person whenever those issues involve matters or the interpretation or enforcement of the Arboricultural Specifications Manual, the Urban Forest Plan, or of the disputes regarding the issuance of permits, or the concurrence or nonconcurrence of the Arborist in permits required under other ordinance or laws, or the abatement of nuisances. The decision of a majority of the appointed members of the Tree Commission with regard to such dispute shall be binding upon the Arborist. Nothing in this Section shall be construed to limit the jurisdiction of any Court of Law with respect to such disputes.

35-1-5

CITY ARBORIST; ESTABLISHMENT, DUTIES.

- (A) **Establishment.** The position of the Arborist is hereby established.
- (B) **Duties.** The Arborist shall perform the following duties:
- (1) The Arborist, with the assistance of the Tree Commission, shall develop, and each subsequent year, update the Urban Forestry Plan. The Plan shall outline urban forestry program activities for a minimum of the next **five (5) years**. This plan shall describe the urban forestry activities to be undertaken by the City, the reasons for those activities, the possible funding source(s), the means of accomplishing the activities, the alternatives available to the City to fund or accomplish the activity, the projected date of completion, and the consequences if the activity is not completed. Activities may include but are not limited to street tree inventory, planting, tree removal, beautification projects, and educational projects.
 - (2) The Arborist, with the assistance of the Tree Commission shall develop and periodically review and revise, as necessary, the Arboricultural Specifications Manual. This manual shall contain regulations and standards for the planting, maintenance, and removal of trees, shrubs and other plants upon City-owned property.

- (3) The Arborist shall cause the Urban Forestry Plan and the Arboricultural Specifications Manual, and all revisions and amendments to it, to be published and promulgated and shall cause **three (3) copies** of the Manual and all revisions and amendments to it, to be available for public inspection at the office of the City Clerk. Notice that such information is available for public inspection shall be published in a newspaper of general circulation with Clinton County at least **one (1) weekday** of each of **four (4) consecutive weeks** immediately following the initial availability of the Arboricultural Specifications Manual, or revisions or amendments thereto. The Arboricultural Specifications Manual, and any revisions and additions thereto shall become effective on the **tenth (10th) day** following the final publication in a newspaper of general circulation required under this paragraph.
- (4) The Arborist shall make available to any interested person copies of the Tree Code information about the activities of the Tree Commission, copies of the Arboricultural Specifications Manual and copies of the Urban Forestry Plan.
- (5) The Arborist shall administer the Urban Forestry Plan, the Tree Code and the provisions of the Arboricultural Specifications Manual.
- (6) The Arborist shall perform whatever acts are necessary, including the planting and maintenance of trees, shrubs, and other plants located on City owned property, conform with the Urban Forestry Plan, the Arboricultural Specifications Manual, and this Code.
- (7) The Arborist shall issue such permits as are required by this Code, and shall obtain as a condition precedent to the issuance of such permits the written agreement of each person who applies for such permits that he or she will comply with the requirements of this Code, the Urban Forestry Plan, and with the regulation and shall have the right to inspect all work performed pursuant to such permits. If the Arborist finds that the work performed is not in compliance with the requirements of this Code, the Urban Forestry Plan, or with the regulations or standards of the Arboricultural Specifications Manual. The Arborist shall provide written notice of his/her finding to the permit applicant. The notice shall contain a copy of Section 35-1-8(C)(5) of this Code; and
 - (a) the permit shall be nullified and shall be void and;
 - (b) the Arborist may issue a written order that the permit applicant cease and desist all work for which the permit was required, and;

- (c) the permit applicant shall be subject to penalty under the terms of this Code, and;
 - (d) the Arborist may take steps to correct the results of the noncomplying work and the reasonable costs of such steps shall be charged to the permit applicant.
- (8) The Arborist shall establish a program of public information and education that will encourage the planting, maintenance, or removal of trees, shrubs, and other plants on private property in furtherance of the goals of the Urban Forestry Plan.

35-1-6 PERMITS.

(A) **Scope of Requirement.** No person except the Arborist, an agent of the Arborist, or a contractor hired by the Arborist may perform any of the following acts without first obtaining from the Arborist a permit for which no fee shall be charged, and nothing in this Section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law:

- (1) plant on City owned property, or treat, prune, remove, or otherwise disturb any tree, shrub or other plant located on City owned property, except that this provision shall not be construed to prohibit owners of property adjacent to City owned property from watering or fertilizing without a permit any tree, shrub, or other plant located on such City owned property;
- (2) trim, prune, or remove any tree or portions thereof if such tree or portions thereof reasonably may be expected to fall on City owned property and thereby cause damage to persons or property;
- (3) place on City owned property, either above or below ground level, a container for trees, shrubs, or other plants;
- (4) damage, cut, tap, carve, or transplant any tree, shrub, or other plant located on City owned property;
- (5) attach any rope, wire, nail, sign, poster, or any other man-made object to any tree, shrub, or other plant located on City owned property;
- (6) dig a tunnel or trench on City owned property.

(B) **Issuance.** Within **seven (7) days** of receipt of the application, the Arborist shall issue a permit to perform within **thirty (30) days** of the day of issuance any of the acts specified in parts (A), and (B), immediately above, for which a permit is requested whenever;

- (1) such acts would result in the abatement of a public nuisance; or
- (2) such acts are not inconsistent with the development and implementation of the Urban Forestry Plan or with any regulations or standards of the Arboricultural Specifications Manual; and whenever;

- (3) an application has been signed by the applicant and submitted to the Arborist detailing the location, number, size, and species of trees, shrubs, or other plants that will be affected by such acts, setting forth the purpose of such acts and the methods to be used, and presenting any additional information that the Arborist may find reasonably necessary;
- (4) the applicant agrees to perform the work for which the permit is sought in accordance with the provisions of this Code, the Urban Forestry Plan and with the regulations and standards set forth in the Arboricultural Specifications Manual; and
- (5) the applicant certifies that he or she has read and understands those provisions of the Urban Forestry Plan, this Code, and of the Arboricultural Specifications Manual which are pertinent to the work for which the permit is sought; and
- (6) if the work for which a permit is issued entails the felling of any tree or park thereof, located on private property, which, as a result of such felling reasonably may be expected to fall upon City owned property and if such felling is done by one other than the owner of the property on which such felling is done, then the applicant shall agree to indemnify and to hold the City of Breese harmless for all damages resulting from work conducted pursuant to the permit and shall deposit with the City Clerk a **One Hundred Thousand Dollars (\$100,000.00)** per person/**Three Hundred Thousand Dollars (\$300,000.00)** per accident for Bodily Injury Liability and **Fifty Thousand Dollars (\$50,000.00)** aggregate for Property Damage Liability, which policy shall name the City of Breese as an additional insured.

(C) Public Utility Companies. Nothing in this Section shall be construed to exempt public utility companies or their agents from any of the requirements of this Code.

35-1-7

PUBLIC NUISANCES.

(A) Definition. The following are hereby declared public nuisances under this Code:

- (1) any dead or dying tree, shrub, or other plant, whether located on City owned property or on private property;
- (2) any otherwise healthy tree, shrub, or other plant, whether located on City owned property or on private property, which harbors diseases which reasonably may be expected to injure or harm any tree, shrub, or other plant;
- (3) any tree, shrub, or other plant, or portion thereof, whether located on City owned property or on private property, which by reason of location or condition constitutes an imminent danger to the health, safety, or welfare of the general public;

- (4) any tree, shrub or other plant or portion thereof whether located on City owned property or on private property which obstructs the free passage of pedestrian or vehicular traffic or which obstructs a street sign on City property;
- (5) any tree, shrub or other plant or portion thereof whether located on City owned property which dangerously obstructs the view as such may be determined by the Street Superintendent pursuant to this Code.

(B) **Right to Inspect.** The officers, agents, servants and employees, of the City have the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance.

(C) **Abatement.** The following are the prescribed means of abating public nuisances under this Code:

- (1) Any public nuisance under this Code which is located on City owned property shall be pruned, removed, or otherwise treated by the property owner in whatever fashion is required to cause the abatement of the nuisance within a reasonable time after its discovery.
- (2) Any public nuisance under this Code which is located on private owned property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. No property owner may be found guilty of violating this provision unless and until the following requirements of notice have been satisfied:
 - (a) the Arborist shall cause a written notice to be personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year.
 - (b) such notice shall describe the kind of tree, shrub, or other nuisance, its location on the property; the reason for declaring it a nuisance.
 - (c) such notice shall describe by legal description or by common description the premises.
 - (d) such notice shall state the actions that the property owner may undertake to abate the nuisance.
 - (e) such notice will require the elimination of the nuisance no less than **thirty (30) days** after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year.
- (3) The Arborist is empowered to cause the immediate abatement of any public nuisance provided that the nuisance is determined by the Arborist to be an immediate threat to any person, or property.

35-1-8 INTERFERENCE WITH ARBORIST. No person shall unreasonably hinder, prevent, delay, or interfere with the Arborist or his/her agents while engaged in the execution or enforcement of this Code.

35-1-9 VIOLATION AND PENALTY. Any person who violates any provision of this Code or who fails to comply with any notice issued pursuant to the provisions of this Code upon being found guilty of violation, shall be subject to a fine not to exceed **Two Hundred Dollars (\$200.00)** for each separate offense, each day during which any violation of the provisions of this Code shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this Code, the injury, mutilation, or death of a tree, shrub, or other plant located on City owned property is caused, the cost of repair or replacement of such tree, shrub, or other plant shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of A Guide to the Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens, as published by the International Society of Arboriculture.

35-1-10 APPEAL. Any party who elects to dispute any action or decision by the City Arborist or Tree Commission shall be entitled to appeal to the City Council for a final determination.

(Ord. No. 791; 04-15-94)

CHAPTER 36

TAXATION

ARTICLE I - FOREIGN FIRE INSURANCE TAX

36-1-1 **PAYMENT, GENERALLY.** All corporations, companies and associations not incorporated under the laws of the State which are engaged, within the limits of the municipality, in writing fire insurance, shall pay annually to the Treasurer of the municipality, for the use and support of the Fire Department of the municipality, the sum of **two percent (2%)** of the gross receipts of their agencies in the municipality. All such corporations, companies and associations shall pay at the rate of **two percent (2%)** upon the gross amount of premiums, which shall have been received for any insurance effected or agreed to be effected, within the limits of the municipality during each year ending **July first (1st)** by each association or company, respectively. (1917 Code; § 16-143)

36-1-2 **PERSONS ACTING AS AGENT, ETC., TO REPORT PREMIUMS.**
Every person who shall act, within the municipality, as agent or otherwise, for or in behalf of any corporation, company or association as referred to in **Section 36-1-3** of this Code shall, on or before the **fifteenth (15th) day of July** of each year, render to the Clerk, a full, true and just account, verified by affidavit, of all the premiums which shall have been received by such agent for fire insurance during the year ending **July first (1st)**, preceding such report, in behalf of such corporation, company or association.

36-1-3 **PERSON ACTING AS AGENT TO MAKE PAYMENT OF TWO PERCENT (2%) OF GROSS RECEIPTS; COMPANIES IN DEFAULT NOT TO TRANSACT BUSINESS.** Every person who shall act within the municipality as agent or otherwise for or in behalf of any corporation, company or association as referred to in **Section 36-1-2** of this Code shall, on behalf of the corporation, company or association represented, pay annually to the Treasurer, at the time of making the report referred to in **Section 36-1-2**, **two percent (2%)** of the gross receipts or premiums of his agency, for which the corporation, company or association represented by the person making such report is chargeable by virtue of this Article. If such account be not rendered on or before the day designated in this Article, or if the rate above fixed shall remain unpaid after that date, it shall be unlawful for such corporation, company or association, so in default, to transact any business within the limits of the municipality, until the above requirements have been fully met; but this provision shall not relieve any such corporation, company or association from the payment of any risk taken in violation hereof.

**36-1-4 EFFECT OF FAILURE OF PERSON ACTING AS AGENT, ETC.,
TO MAKE REPORT OF PREMIUMS OR TO PAY SUMS DUE; EFFECTING
CONTRACTS OF FIRE INSURANCE FOR NON-COMPLYING COMPANIES, ETC.**

Any person acting as agent or otherwise for, or in behalf of any fire insurance company, corporation, or association, as referred to in this Article in effecting fire insurance within the limits of the municipality, who shall fail to make the report required in this Article, or fail to pay over the amount due from any such corporation, company, or association at the time designated for that purpose, or who shall effect or attempt to effect any contract of fire insurance in behalf of any such corporation, company, or association which has not complied with the provisions of this Article, shall, upon conviction, be deemed guilty of a misdemeanor; provided that any prosecution brought by the municipality to enforce the penalty for the violation of this Article shall not interfere with the rights of the municipality to recover, by appropriate action, the sum due the municipality, at the rate fixed in this Article, from any such corporation, company, or association, its agents or representatives.

ARTICLE II - GENERAL TAXES

36-2-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the City shall be and the same is hereby established at a rate of **.25%**. (65 ILCS Sec. 5/8-3-1)

36-2-2 **MAXIMUM RATES ESTABLISHED.** The maximum tax rates for the various purposes of the City of the full, fair, cash value as equalized or assessed by the Department of Revenue on all the taxable property within the City shall be as follows:

<u>FUND/PURPOSE</u>	<u>MAXIMUM RATE</u>
City Park	\$.25 per \$100.00
Emergency Service and Disaster Agency	\$.05 per \$100.00
IMRF	\$ NO LIMIT
Library	\$.25 per \$100.00 (#937)
Police Protection	\$.075 per \$100.00
Social Security	\$ NO LIMIT
Tort Liability	\$ NO LIMIT

ARTICLE III

TELECOMMUNICATIONS INFRASTRUCTURE FEE

36-3-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **“Gross Charges”** means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the City, and for all services rendered in connection therewith, 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 point within the City, charges for the channel mileage between each channel point within the City, and charges for that portion of the interstate inter-office channel provided within the City. However, “gross charges” shall not include:

- (1) any amounts added to a purchaser’s bill because of a charge made under:
 - (a) the fee imposed by this Section,
 - (b) additional charges added to a purchaser’s bill under Section 9-221 or 9-222 of the Public Utilities Act,
 - (c) amounts collected under Section 8-11-17 of the Illinois Municipal Code,
 - (d) the tax imposed by the Telecommunications Excise Tax Act,
 - (e) 911 surcharges, or
 - (f) the tax imposed by Section 4251 of the Internal Revenue Code;
- (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 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 City;
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries, 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 other than a regulatory required profit for the corporation rendering such services;
- (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; or
- (9) charges for telecommunications and all services and equipment provided to the City.

(B) **“Public Right-of-Way”** means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the City has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. “Public Right-of-Way” shall not include any real or personal City property that is not specifically described in the previous sentence and shall not include City buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

(C) **“Retailer maintaining a place of business in this State”**, or any like term, means and includes any retailer having or maintaining within the State of Illinois, 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.

(D) **“Sale of telecommunications at retail”** means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

(E) **“Service address”** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, “service address” shall mean the location of the customer’s primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

(F) **“Telecommunications”** 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 services, private line services, specialized mobile radio services, 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. Unless the context clearly requires otherwise, “telecommunications” shall also include wireless telecommunications as hereinafter defined. “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 him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provisions and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. “Telecommunications” shall not include the provision of cable service through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Section 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.D.F. 76.1550 and following) as now or hereafter amended.

(G) **“Telecommunications provider”** means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

(H) **“Telecommunications retailer” or “retailer” or “carrier”** means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The City may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the City, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business in the City.

(I) **“Wireless telecommunications”** includes cellular mobile services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §331(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

36-3-2 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS.

(A) Every telecommunications provider as defined by this Article shall register with the City within **thirty (30) days** after the effective date of this Article or becoming a telecommunications provider, whichever is later, on a form to be provided by the City, provided, however, that any telecommunications retailer that has filed a return pursuant to **Section 36-3-4(C)** of this Article shall be deemed to have registered in accordance with this Section.

(B) Every telecommunications provider who has registered with the City pursuant to **Section 36-3-2(A)** has an affirmative duty to submit an amended registration form or current return as required by **Section 36-3-4(C)**, as the case may be, to the City within **thirty (30) days** from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the City.

36-3-3 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE.

(A) A City telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of **one percent (1%)** of all gross charges charged by the telecommunications retailers to service addresses within the City for telecommunications originating or received in the City.

(B) Upon the effective date of the infrastructure maintenance fee authorized in this Article, the City infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the City by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Article does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

(C) The City telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in **Section 36-3-4** of this Article.

36-3-4 COLLECTION, ENFORCEMENT, AND ADMINISTRATION OF TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES.

(A) A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the City infrastructure maintenance fee attributable to that customer's service address.

(B) Unless otherwise approved by the City the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the City not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed **two percent (2%)** of the City infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

(C) Remittance of the municipal infrastructure fee to the City shall be accompanied by a return, in a form to be prescribed by the City, which shall contain such information as the City may reasonably require.

(D) Any infrastructure maintenance fee required to be collected pursuant to this Article and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the City. The charge imposed under **Section 36-3-4(A)** by the telecommunications retailer pursuant to this Article shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

(E) If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Article, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Article, from the telecommunications retailer who made the erroneous payment; provided, however, the City may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than **three (3) years** after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the City within the applicable statutory period of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

(F) Amounts paid under this Article by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

- (1) **“gross charges”** for purposes of the Telecommunications Excise Tax Act;
- (2) **“gross receipts”** for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
- (3) **“gross charges”** for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
- (4) **“gross revenue”** for purposes of the tax on annual gross revenue of public utilities in Section 2-202 of the Public Utilities Act.

(G) The City shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Article to determine whether the telecommunications retailer has properly accounted to the City for the City infrastructure maintenance fee. Any underpayment of the amount of the City infrastructure maintenance fee due to the City by the telecommunications retailer shall be paid to the City plus **five percent (5%)** of the total amount of the underpayment determined in an audit, plus any costs incurred by the City in conducting the audit, in an amount not to exceed **five percent (5%)** of the total amount of the underpayment determined in an audit. Said sum shall be paid to the City within **twenty-one (21) days** after the date of issuance of an invoice for same.

(H) The City or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Article consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to **Section 36-3-2** of this Article of such regulations.

36-3-5 **COMPLIANCE WITH OTHER LAWS.** Nothing in this Article shall excuse any person or entity from obligations imposed under any law, including but not limited to:

- (A) generally applicable taxes; and
- (B) standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and
- (C) Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- (D) Compliance with any ordinance or provision of this Code concerning uses or structures not located on, over, or within the right-of-way.

36-3-6 **EXISTING FRANCHISES AND LICENSES.** Any franchise, license, or similar agreements between telecommunications retailers and the City entered into before the effective date of this Article regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

36-3-7 **PENALTIES.** Any telecommunications provider 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 general penalty provisions of the City Municipal Code.

36-3-8 **ENFORCEMENT.** Nothing in this Chapter shall be construed as limiting any additional or further remedies that the City may have for enforcement of this Chapter.

36-3-9 **SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

36-3-10 **CONFLICT.** This Article supersedes all Article or parts of Articles adopted prior hereto which are in conflict herewith, to the extent of such conflict.

36-3-11 **WAIVER AND FEE IMPLEMENTATION.**

(A) The City hereby waives all fees, charges, and other compensation that may accrue, after the effective date of the waiver, to the City by a telecommunications retailer pursuant to any existing City franchise, license, or similar agreement with a telecommunications retailer during the time the City imposes the Telecommunications Infrastructure Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Article is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

(B) The City Clerk shall send a notice of the waiver by certified mail/return receipt requested to each telecommunications retailer with whom the City has a franchise.

(C) The City infrastructure maintenance fee provided for in this Article shall become effective and imposed on the **first (1st) day** of the month not less than **ninety (90) days** after the City provides written notice by certified mail to each telecommunications retailer with whom the City has an existing franchise, license, or similar agreement that the City waives all compensation under such existing franchise, license, or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the City. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

(Ord. No. 97-09; 11-05-97)

ARTICLE IV – HOTEL/MOTEL TAX

36-4-1 **DEFINITIONS.** For the purpose of this Article, whenever any of the following words, terms, or definitions are used herein, they shall have the meaning ascribed to them in this Section:

(A) **Hotel Room or Motel Room** means a room within a structure offered for rental on a daily basis and containing facilities for sleeping. **One (1) room** offered for rental with or without an adjoining bath shall be considered as a single hotel or motel room. The number of hotel or motel rooms within a suite shall be computed on the basis of those rooms utilized for the purpose of sleeping.

(B) **Owner** means any person having an ownership interest in, conducting the operation of a hotel or motel room, or receiving the consideration for the rental of such hotel or motel room.

(C) **Person** means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

36-4-2 **TAX IMPOSED.** There is hereby levied and imposed a tax of **five percent (5%)** of the rent charged for the privilege and use of renting a hotel or motel room within the City for each **twenty-four (24) hour** period or any portion thereof for which a daily room charge is made; provided, however, that the tax shall not be levied and imposed upon any person who rents a hotel or motel room for more than **thirty (30) consecutive days** or to a person who works and lives in the same hotel or motel.

36-4-3 **EXCLUSION.**

(A) The ultimate incidence of, and liability for, payment of said tax is to be borne by the person who seeks the privilege of occupying the hotel or motel room, said person hereinafter referred to as “renter”.

(B) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner of every hotel or motel to secure said tax from the renter of the motel or hotel room, and to pay over to the City Clerk or any authorized representative of the City said tax under procedures prescribed by the City Clerk, or as otherwise provided in this Chapter.

(C) Every person required to collect the tax levied by this Chapter shall secure said tax from the renter at the time he collects the rental payment for the hotel or motel room. Upon receipt of the invoice, or other statement or memorandum of the rent given to the renter at the time of payment, the amount due under the tax provided in this Chapter shall be stated separately on said document.

36-4-4 **BOOKS AND RECORDS.** The City Manager or authorized representative may enter the premises of any hotel or motel for inspection and examination of records in order to effectuate the proper administration of this Chapter, and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder, or interfere with the City Manager or authorized representative in the discharge of their duties on the enforcement of this Chapter. It shall be the duty of every owner to keep accurate and complete books and records to which the City Manager or authorized representative shall at all times have full access, which records shall include a daily sheet showing:

(A) The number of hotel or motel rooms rented during the **twenty-four (24) hour** period, including multiple rentals of the same hotel or motel rooms where such shall occur, and

(B) The actual hotel or motel tax receipts collected for the date in question.

36-4-5 **TRANSMITTAL OF TAX REVENUE.**

(A) Commencing on **May 1, 2000**, the owner or owners of each hotel or motel within the City shall file tax returns showing tax receipts received with respect to each hotel and motel room during each month commencing on **May 1, 2000**. The return shall be due on or before the last day of each succeeding calendar month, and the return shall indicate for what period the return is to be filed; i.e., return for January tax receipts is due on or before the last day of February.

(B) Commencing on **May 1, 2000**, the tax return and payment for such period shall be due on **June 30, 2000**. Thereafter, reporting periods and taxes shall be paid in accordance with the provisions of this Chapter. At the time of filing said tax returns, the owner shall pay to the City Clerk all taxes due for the period to which the tax return applies.

(C) If for any reason any tax is not paid when due, a penalty at the rate of **one and one-half percent (1 ½%)** per **thirty (30) day** period, or portion thereof from the date of delinquency, shall be added and collected.

36-4-6 **COLLECTION.** Whenever any person shall file to pay any tax as herein provided, the Corporation Counsel shall, upon the request of the City Council, bring, or cause to be brought, an action to enforce the payment of said tax on behalf of the City in any court of competent jurisdiction.

36-4-7 **PROCEEDS OF TAX AND FINES.** All proceeds resulting from the imposition of the tax under this Chapter, including penalties, shall be appropriated as follows:

(A) **Five percent (5%)** of the gross tax revenue collected each year shall be appropriated for and directed to the office of the City Clerk to defray the costs of administering and processing the imposition, application and collection of the tax.

(B) All the rest, residue and remainder of the Tax Revenue collected each year shall be paid into the Treasury of the City into a special fund to be used and applied for the promotion and development of tourism and conventions in the City.

(C) A committee shall be established as the “City of Breese Tourism Committee”. The primary responsibility of this Tourism Committee is to convene as often as necessary and make recommendations to the City Council as to the orderly disbursement of funds collected.

36-4-8 **PENALTIES.** Any person, firm or corporation found willfully guilty of failing to pay, collect, report and transmit said hotel or motel tax to the City Clerk in accordance with the terms of this Chapter shall, except when otherwise specifically provided, upon conviction thereof, be punished by a fine not to exceed **Five Hundred Dollars (\$500.00)** for each offense. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof.

(Ord. No. 978; 04-04-00)

ARTICLE V

TAXPAYERS' RIGHTS CODE

36-5-1 **TITLE.** This Article shall be known as, and may be cited as, the “Locally Imposed and Administered Tax Rights and Responsibility Code”.

36-5-2 **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.

36-5-3 **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 Clerk, 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 Breese, 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.

36-5-4 **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.

36-5-5 **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.

36-5-6 **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.

36-5-7 **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 **two (2) years** after the end of the calendar year in which payment in error was made. The City shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the City.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
 - (a) the name of the locally imposed and administered tax subject to the claim;

- (b) the tax period for the locally imposed and administered tax subject to the claim;
 - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
 - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the City.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
- (a) grant the claim; or
 - (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **five percent (5%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

36-5-8 **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.

36-5-9 **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.

36-5-10 **HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-5-9**, 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.

36-5-11 **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.

36-5-12 **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.

36-5-13 **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.

36-5-14 **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** 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.

36-5-15 **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.

36-5-16 **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.

36-5-17 **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.

36-5-18 **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the City's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(Ord. No. 1003; 12-19-00)

CHAPTER 37

TAX INCREMENT FINANCING

ARTICLE I – INTERESTED PARTIES REGISTRY REGISTRATION RULES

37-1-1 **DEFINITIONS.** As used in these Registration Rules, the following terms shall have the definitions set forth below.

(A) **“Act”** shall mean the Tax Increment Allocation Redevelopment Act **65 ILCS 5/11-74.4-1 et seq.** as amended from time to time.

(B) **“City”** shall mean City of Breese, Clinton 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 registered in such Registry and whose registration has not been terminated in accordance with these Registration Rules.

(D) **“Redevelopment Project Area”** shall mean a redevelopment project area that (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.

37-1-2 **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 37-1-11** of these rules or any other notices required by the Act with respect to the proposed Redevelopment Project Area.

37-1-3 **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.

37-1-4 **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.

37-1-5 **REGISTRATION OF 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.

37-1-6 **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.

37-1-7 **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.

37-1-8 **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 shall 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.

37-1-9 **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: (1) a change in address for notice purposes; (2) in the case of organizations, a change in the name of the contact person; and (3) a termination of registration. Upon receipt of such notice, the Clerk shall revise the applicable Registry accordingly.

37-1-10 **REGISTRIES AVAILABLE FOR PUBLIC INSPECTION.** Each Registry shall be available for public inspection during the City's normal business hours.

37-1-11 **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 plan 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 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.

37-1-12 **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.

37-1-13 **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. 1260; 09-04-12)

(See 65 ILCS 5/11-74.4-1 et seq.)

CHAPTER 38

UTILITIES

ARTICLE I - DEPARTMENT ESTABLISHED

38-1-1 **DEPARTMENT ESTABLISHED.** There shall be an executive department of the City known as the Utilities Department. It shall include the Utilities Committee appointed by the Mayor and its employees. The designated office shall be the City Hall.

38-1-2 **COMMITTEE ON UTILITIES.** The City Council standing committee on utilities shall exercise a general supervision over the affairs of the water, sewer and electric departments. It shall ascertain the condition and needs thereof; and shall, from time to time, report the same to the Mayor and City Council so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Departments.

ARTICLE II - RATES AND REGULATIONS

DIVISION I - GENERAL PROVISIONS

38-2-1 CONTRACT FOR UTILITY SERVICES.

(A) Customer Accepts Service. The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with utility services from the Water and Sewer Systems and every person, company or corporation hereinafter called a "customer" who accepts and uses utility services shall be held to have consented to be bound thereby.

(B) Not Liable for Interrupted Service. The City shall endeavor at all times to provide a regular and uninterrupted supply of service, however, in case the supply of service shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants or agents, the Department shall not be liable therefor.

(C) Using Services Without Paying. Any person using utility services from the City without paying therefor or who shall be found guilty of breaking the seal of any meter or appurtenances or bypassing any meter shall be guilty of violating this Code and upon conviction, shall be fined a sum as provided in **Chapter 1 entitled "Administration"** of this Code.

(D) Destroying Property. Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the utility systems, or erecting signs on the property of the utility systems, or erecting signs on the property of the utility systems without permission shall, upon conviction of such act, be fined as provided in **Chapter 1 entitled "Administration"** of this Code. It shall be unlawful for any person to enter upon the sewer compound designated by the fenced-in enclosure. Any person other than employees of the City of Breese or their representatives entering upon the sewer plant premises shall be guilty. **(Ord. No. 836; 10-03-95)**

(E) Service Obtained by Fraud. All contracts for utility services must be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting names of other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of non-payment of bills or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the advanced payment as may be necessary to satisfy the unpaid obligation shall be retained by the City and credited to the appropriate account.

(F) Failure to Receive Bill. Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the next billing shall include the charges for services used during the unbilled month. A month shall be considered as that period of approximately **thirty (30) days.**

(G) **Request to Discontinue Service.** Services shall have been deemed to have been supplied to any property connected to the utility systems during a month unless the customer notifies the City prior to the first day of the new billing month in which the utility services are to be discontinued.

(H)

Billing; Utility Shut-off; Hearing; Deferred Payment.

(1) **Payment for Utility Services and Default.** All bills for utility services shall be due and payable upon presentation. If a bill is not paid by the due date printed on the bill or by the **twenty-fifth (25th) day** of the month (or the next business day in the event that the **twenty-fifth (25th) day** of the month falls on a weekend or a holiday) the bill is presented, whichever is later, a penalty equal to **ten percent (10%)** of the amount due on said bill shall be added thereto. This penalty shall be in addition to the charges heretofore established for the utility services. If a customer has an objection to a charge on the bill they receive from the City, they shall raise such objections to the City on or before the **fifty (5th) day** after they receive the bill. Unless an objection is raised by the customer on or before the **fifth (5th) day** after they receive the bill from the City, the City shall presume that the charges are valid.

(2) **Past Due Notice.** A "Past-Due" notice shall be sent to the customer if the bill is not paid on or before the **first (1st) day** of the next succeeding month following the month of the unpaid bill (or the next business day after the **first (1st) day** of the month in the event that the **first (1st)** falls on a weekend or holiday). The "past due" notice, which shall be sent by first-class mail, personally delivered to the customer or posted on the premises receiving the utility service. The method of delivery shall be determined by the City. The Notice shall provide as follows:

- (a) The name and address of the customer and/or the owner, or both and the amount of the bill.
- (b) That if payment is not received by the **tenth (10th) day** of that month ("Deadline to Avoid Disconnection"), the customer's utility services shall be disconnected.
- (c) That the customer has the right to request a hearing regarding the proposed disconnection of services and has the right to present evidence on his or her behalf at such hearing and appear in person or by representative and that such request for a hearing must be made in writing and received by the City prior to the stated Deadline to Avoid Disconnection.
- (d) That the customer may avoid disconnection by entering into and performing a Deferred Payment Agreement with the City which shall provide that the Customer agrees to pay the amount in arrears in **four (4)** equal consecutive monthly installments, conditioned upon timely payment of future bills falling due within the period of the Deferred Payment Agreement.

If the owner of the property served by the utility is someone other than the customer, the City may send a copy of such notice to the owner if the owner of the premises has registered his or her name and address with the City for the purpose of receiving such notices.

(3) **Final Notice of Disconnection.** If the customer fails to pay the utility bill by the Deadline to Avoid Disconnection, fails to request a hearing or fails to enter into a Deferred Payment Agreement with the City, the city shall serve a Final Notice of Disconnection (Red Tag), giving the customer **twenty-four (24) hours'** notice of utility disconnection.

- (4) **Hearing Prior to Disconnection.** In the event that a customer requests a hearing regarding the proposed disconnection of utility services, the City shall send a notice of the date, time and location of the hearing to the customer by first class mail. Such hearing shall be scheduled within **ten (10) days** of the date that a request for hearing is received by the City from the customer. No extension of time for the hearing shall be granted. If the customer fails to appear at the hearing, a Final Notice of Disconnection (Red Tag) shall be delivered to the customer, giving the customer notice that his or her utility services shall be disconnected within **twenty-four (24) hours**. If a hearing is conducted, the Hearing Officer and Disconnection Committee (appointed by the Mayor), shall review the evidence and statements presented at the hearing, shall conduct its own investigation into the objections raised by the customer and shall render a decision within **three (3) working days** of the date the hearing is conducted. Notice of the decision of the hearing officer shall be mailed to the customer first class mail, personally delivered or posted at the premises receiving the services, as determined by the City, within **three (3) working days** of the date the decision is rendered. If the decision of the hearing officer is that disconnection shall take place, then along with the notice of decision, the customer shall be given a notice that if the amounts due are not paid in full on or before **five (5) days** from the date of the notice of decision, then utility services shall be disconnected. In the event that the customer has not paid all amounts due on or before that date, then the City shall issue a Final Notice of Disconnection (Red Tag), advising the customer that service shall be disconnected within **twenty-four (24) hours** of the date of the notice.
- (5) **Deferred Payment Agreement.** A customer who receives notice that their utility service shall be disconnected for failure to timely pay their utility bill, as described herein, shall have the option to enter into a "Deferred Payment Agreement" which shall provide that the customer shall pay the amounts in arrears over **four (4)** equal consecutive monthly installments. The Deferred Payment Agreement must be signed by the customer on or before the Deadline to Avoid Disconnection. **Twenty-five percent (25%)** of the amount in arrears must be paid on or before the date that the Deferred Payment Agreement is signed by the customer. Each subsequent payment shall be made on or before the **twenty-fifth (25th) day** of the month, commencing with the month following the month the agreement is executed. The Deferred Payment Agreement shall also provide that the customer shall make all payments for current utility services coming due within the period of the deferred payments in a timely manner as a condition of the agreement. In the event that a customer fails to perform the Deferred Payment Agreement as provided therein, then the city shall issue to the customer a Notice of Default by first class mail, giving the customer **five (5) days** to cure the default. In the event the customer fails to cure the default described in the Notice, then the city shall terminate the Deferred Payment Agreement and all deferred amounts due and owing to the City shall become immediately due and owing. The customer shall then be issued a Final Notice of Disconnection (Red Tag) notifying the customer that utility service shall be disconnected within **twenty-four (24) hours** of the date of notice.

- (6) **Reconnecting Disconnected Services.** Once utility services have been disconnected [terminated], the same shall not be again connected or used until all delinquent accounts and bills of service are paid in full, including a fee of **Twenty-Five Dollars (\$25.00)**, if request for reconnecting during regular business hours, and **Fifty Dollars (\$50.00)** if request is for reconnection outside of regular business hours, for each connection of such utility services, plus expenses incurred in the reconnection of the utility services.

(Ord. No. 1198; 09-15-09)

(I) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Clerk shall file a statement of lien claim with the County Recorder of Deeds. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the municipality claims a lien for this amount as well as for all charges for utility services served subsequent to the period covered by the bill.

If the consumer of utility services whose bill is unpaid is not the owner of the premises and the Clerk has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Clerk whenever such bill remains unpaid for a period of **sixty (60) days** after it has been rendered.

The failure of the Clerk to record such lien or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned herein.

(J) **Foreclosure of Lien.** Property subject to a lien for unpaid utility charges may be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges, after deducting costs as is the case in the foreclosure of statutory liens. Such foreclosure shall be billed in the name of the City. The City Attorney is hereby authorized to institute such proceedings in the name of the City, in any Court having jurisdiction over such matters, against any property for which the bill for utility services has remained unpaid **sixty (60) days** after it has been rendered.

38-2-2 **CONSUMER LISTS.** It is hereby made the duty of the Superintendent to prepare or cause to be prepared an accurate list of all premises and properties receiving utility services, showing the name and address of the occupant and/or owner of the same. The list shall be kept up-to-date, and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises.

38-2-3 **LIABILITY FOR CHARGES.** The **owner** of any lot, parcel of land or premises receiving utility services, the **occupant** of such premises and the **user** of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises and all services are rendered to the premises by the City only on the condition that such owner, occupant **and** user shall be jointly and severally liable to the City therefor.

38-2-4 **ESTIMATED CHARGE.** Whenever any meter, by reason of its being out of repair or from any cause, fails to properly register the utilities passing through the same, the consumer shall be charged the average usage charge of the **previous three (3) months**. If no record of the previous **three (3) months** exists, then it shall be the duty of the Collector to estimate the amount of utilities consumed during the time the meter fails to operate, and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

38-2-5 **NO FREE SERVICE.** No free service shall be furnished to any person and all rates and charges shall be non-discriminatory, provided that the Mayor and City Council reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

38-2-6 **RESALE PROHIBITED.** No utility service shall be resold or distributed by the recipient or consumer thereof from the City supply to any premises other than that for which application has been made and the meter installed, except in cases of emergency.

38-2-7 **DISCONTINUANCE OF WATER SERVICE--CUSTOMER.** The customer shall notify the City of any change in occupancy. No adjustment of bills will be made by the City as between the owners or tenants unless **ten (10) days notice** prior to the change of occupancy has been given to the City. No rebate will be given for unoccupied premises unless notice of non-occupancy is given.

Any customer may discontinue water service by giving the City notice not less than **ten (10) days** prior to the discontinuance, and all liability for charges for service rendered after the discontinuance of service as herein provided for shall cease.

38-2-8 **UTILITY DEPOSITS.** All persons applying for Utility service, to be used on property which is not owned by the applicant, shall pay the amount of **Two Hundred Dollars (\$200.00)** for a meter deposit to the City for electric service, and shall pay the amount of **Fifty Dollars (\$50.00)** for a meter deposit to the City for water/sewer service.

The deposits made under the provisions of this Section shall be held by the City as security for the payment of utilities used by the applicant upon the premises to which his or her application pertains, and may be so applied when any default is made in the payment in the utilities bill, in accordance with this Chapter. **(Ord. No. 1291; 09-03-13)**

38-2-9 **RULES TO BECOME PART OF CONTRACT.** All of the rules and regulations concerning the use of the facilities of the water and sewer utilities shall be adopted and the same shall become a part of the contract with every consumer and every consumer shall be considered to consume utilities from the City, subject thereto and bound thereby.

38-2-10 **BUILDING UNIT DEFINED.** All persons of families residing in a building under **one (1) roof**, be it an apartment or homes converted into more than **one (1) dwelling place**, each family or individual resident residing therein shall be deemed an individual consumer and such homes or apartments or dwellings shall be billed for at least **one (1) minimum water account**, according to the number of family or individual residents residing therein. Hotel, Motels, Nursing Homes and Hospitals are excluded. **(#314A; 11-18-69)**

ARTICLE III - UTILITY RATES

DIVISION I - GENERAL

38-3-1 **ACCOUNTS.** The City Clerk shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the utility systems, and at regular annual intervals he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of those systems.

In addition to the customary operating statements, the annual sewer audit report shall also reflect the revenues and operating expenses of the wastewater facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do in fact meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the wastewater plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.
- (F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

38-3-2 **NOTICE OF RATES.** A copy of the sewer rates properly certified by the City Clerk, shall be filed in the office of the Recorder of Deeds of Clinton County and shall be deemed notice to all owners of real estate of the charges of the sewerage system of the City on their properties.

38-3-3 **ACCESS TO RECORDS.** The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or their authorized representatives shall have access to any books, documents, papers and records of the City which are applicable to the City's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the Special and General Conditions to any State Grant, State Loan Agreement and Rules of any State Loan. **(Ord. No. 1058; 02-03-04)**

38-3-4 - 38-3-9 **RESERVED.**

DIVISION II - WATER RATES

38-3-10 **WATER RATES.** The following monthly charges shall prevail for water consumption:

- (A) **Inside Corporate Limits.**

First 1,000 gallons at	\$11.57 (minimum charge)
Next 2,000 gallons at	6.45 per 1,000 gallons
Next 4,000 gallons at	5.60 per 1,000 gallons
Over 7,000 gallons at	5.08 per 1,000 gallons

- (B) **Outside Corporate Limits.**

First 1,000 gallons at	\$14.89 (minimum charge)
Next 2,000 gallons at	9.08 per 1,000 gallons
Next 4,000 gallons at	8.31 per 1,000 gallons
Over 7,000 gallons at	6.15 per 1,000 gallons

Each water customer shall also be charged a **Three Dollar (\$3.00)** per month meter charge.

Beginning **January 1, 2016**, water rates shall increase annually in accordance with the Consumer Price Index (CPI). Water consumption shall include all water passing through the meter including water lost through leaks/breaks on the customer's side of the meter.

Bills for water usage are due and payable upon presentation. Service will be discontinued for any customer who fails to pay for water service within **thirty (30) days** from date of billing.

38-3-11 **WATER TAP-IN FEES.** A person desiring a water service shall apply to the Clerk for a permit and shall pay the following fees:

- (A) **Inside Corporate Limits.**
 - (1) **Three-fourths (3/4) inch** connection - **Five Hundred Dollars (\$500.00).**
 - (2) **One (1) inch** connection - **Nine Hundred Fifty Dollars (\$950.00).**

- (B) **Outside Corporate Limits (Upon approval of City Council Only).**
 - (1) **Three-fourths (3/4) inch** connection - **Six Hundred Dollars (\$600.00).**
 - (2) **One (1) inch** connection - **One Thousand Fifty Dollars (\$1,050.00).**

(C) If a connection larger than described above is requested, an additional charge shall be made, based upon actual cost. The additional charge shall be first determined by the City Council before issuance of the permit for said connection. **(Ord. No. 1155; 02-05-08)**

38-3-12 TURNING SERVICES ON. A charge shall be made for shutting off and turning on water services when requested after working hours. **(Ord. No. 1159; 02-05-08)**

38-3-13 APPEALS. The method for computation of rates and service charges established for user charges in **Article III** shall be made available to a user within **fourteen (14) days** of receipt of a written request for such. Any disagreement over the method used or in the computations thereof shall be resolved by reference to a third party accountant who does not represent the City within **fourteen (14) days** after notification of a formal written appeal outlining the discrepancies. **(Ord. No. 1058; 02-03-04)**

38-3-14 ANNUAL WATER RATE REVIEW AND ADJUSTMENTS. The adequacy of the water service charge shall be reviewed, not less often than annually, by Certified Public Accountants for the City in their annual audit report. The water service charge shall be revised periodically to reflect a change in local capital cost or Operation, Maintenance and Replacement costs. **(Ord. No. 1058; 02-03-04)**

38-3-15 RESERVED.

DIVISION III - SEWER RATES

38-3-16 SEWER USER CHARGES. The charges for sewer services shall be made on a monthly basis, based on the water meter readings for the same quarter of each year. The sewer service charge for the use of and for service supplied by the wastewater facilities of the City shall consist of a basic user charge for operation and maintenance plus replacement, a capital cost for depreciation and debt reduction, and, a surcharge and/or rebate, if applicable. **(Ord. #449A; 12-18-79)**

In the event of a water main breakage on the customer's side of the meter, the charges for sewer services shall be for the period immediately following the leakage the sum of **Thirty Dollars (\$30.00)** or the equivalent of the previous month bill, whichever is less. **(Ord. #482A; 02-17-81)**

38-3-17 SEWER: BASIC USER CHARGE. The basic user charge shall be based on water usage as recorded by water meters and/or sewage meters for wastes having the following normal domestic concentrations:

(A) A five day, 20 degree centigrade (**20°C**) biochemical oxygen demand (BOD) of 240 mg/l.

(B) A suspended solids (SS) content of 263 mg/l.

It shall consist of a basic user charge for operation and maintenance costs plus replacement, depreciation and a capital cost charge for debt reduction, and, shall be computed as follows:

- (1) Estimate the projected annual revenue required to operate and maintain the wastewater facilities including a replacement/depreciation and debt retirement fund for the year, for all works categories.
- (2) Proportion the estimated costs to wastewater facility categories by Volume, Suspended Solids and BOD, if possible.
- (3) Estimate wastewater volume, pounds of SS and pounds of BOD to be treated.
- (4) Proportion the estimated costs to non-industrial and industrial users by volume, suspended solids and BOD.
- (5) Compute costs per 1,000 gallons for normal sewage strength.
- (6) Compute surcharge costs per mg/l in excess of normal sewage strength for BOD and SS.

38-3-18 **SURCHARGE.** A surcharge will be levied to all users whose BOD and SS exceed 240 mg/l and 263 mg/l respectively. The surcharge will be based on water usage as recorded by water meters and/or sewage meters for all wastes which exceed the 240 mg/l and 263 mg/l concentration for BOD and SS respectively. **Section 38-3-22** specified the procedure to compute a surcharge.

38-3-19 **SERVICE CHARGE AUDIT.** The adequacy of the wastewater service charge shall be reviewed annually by Certified Public Accountants for the City in their annual audit report. The wastewater service or a change in operation and maintenance costs including replacement costs.

38-3-20 **MEASUREMENT OF FLOW.** The volume of flow used in computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of 1,000 gallons.

(A) If the person discharging wastes into the public sewers procures any part or all of his water from sources other than the City Waterworks System, all or a part of which is discharged into the public sewers, the person shall install and maintain, at his expense water meters of a type approved by the Supervisor of Public Works for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the Supervisor of Public Works if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume of waste shall be installed, owned, and maintained by the person. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the City.

38-3-21 BASIC USER RATE. There shall be and there is hereby established minimum charge and basic user rate for the use of and for service supplied by the Wastewater Facilities of the City.

(A) A minimum charge of **Three Dollars Four Cents (\$3.04)** per month shall be applied to all users whose water consumption does not exceed **one thousand (1,000) gallons** per month.

(B) A basic user rate of **Three Dollars Four Cents (\$3.04)** per **one thousand (1,000) gallons** shall be applied to all users for water consumption in excess of **one thousand (1,000) gallons** per month.

The minimum charge and basic user rate shall commence at the **October, 2009** Monthly Billing Period.

(C) On January 1st of 2010 the minimum charge and basic user rates shall increase by **fifteen percent (15%)** plus adjustment based upon the average Consumer Price Index for urban consumers for the preceding year. On January 1st of each year thereafter the minimum charge and basic user rate shall be adjusted based upon the average Consumer Price Index (C.P.I.) for urban consumers for the preceding year. **(Ord. No. 1197; 09-15-09)**

38-3-22 SURCHARGE RATE. The rates of surcharges for BOD₅ and SS shall be as follows:

$$\begin{aligned}
 SC_{BODi} &= \$0.10 (BOD_i - 240) \times Q_i \times 8.34 \\
 SC_{SSi} &= \$0.07 (SS_i - 263) \times Q_i \times 8.34 \\
 SC_i &= SC_{BODi} + SC_{SSi}
 \end{aligned}$$

Where Q_i = total quarterly flow volume expressed in million gallons.
 BOD_i = Biochemical Oxygen Demand Concentration (5 day, 20 degrees Centigrade) of waste expressed in milligrams per liter.
 SS_i = Suspended Solids Concentration of waste expressed in milligrams per liter.
 SC_{BODi} = Quarterly surcharge in dollars for Biochemical Oxygen Demand for waste concentrations greater than 240 mg/l.
 SC_{SSi} = Quarterly surcharge in dollars for Suspended Solids for waste concentrations greater than 263 mg/l.
 SC_i = Total Quarterly surcharge in dollars.

(Ord. No. 449A; 12-18-79)

38-3-23 COMPUTATION OF SURCHARGE. The concentration of wastes used for computing surcharges shall be established by flow measurements and waste sampling. Waste sampling and flow measurement shall be performed as often as may be deemed necessary by the Superintendent and shall be binding as a basis for surcharges. **(Ord. No. 449A; 12-18-79)**

38-3-24 COMPUTATION OF WASTEWATER SERVICE CHARGE. The wastewater service charge shall be computed by the following formula:

$$CW = CM + (VU-X) Cu + SC_i$$

Where CW = Amount of wastewater service charge (\$) per billing period. (Quarterly)

CM = Minimum Charge for Operation, Maintenance, Replacement (\$4.56) and Depreciation and Debt Reduction, (\$3.36), (\$7.92) **(See Sec. 38-2-11)**

Vu = Wastewater Volume for the billing period. (Gallons)

X = Allowable consumption in gallons for the minimum charge **(Section 38-2-11)** (4000 gallons)

CU = Basic User Rate for Operation, Maintenance, and Replacement (\$1.14); and, Depreciation, and Debt Reduction (\$0.48) (\$1.98 per 1000 gallons)

SC = Amount of Surcharge. **(Section 38-2-12)**

38-3-25 REBATE. The City may at its discretion grant an equitable rebate or discount on each and every bill for a particular billing period. This rebate shall be pro-rated on each bill at a reduction in the basic user rate up to but not exceeding the prorated share of Debt Reduction per. **(See Sec. 38-2-11)**

38-3-26 NO WATER SERVICE; SEWER RATE. For use of the sewer system by property owners living within the corporate limits of the City, who have no water connection, a minimum charge of **Thirty-Two Dollars (\$32.00)** per year shall be made.

38-3-27 REVENUES. All revenues and monies derived for the sewage and water systems shall be deposited in separate accounts by the City Clerk at the end of each day the monies are collected. Funds in these accounts shall be administered by the City in every respect in the manner provided by statute.

Bills shall be rendered on May 1st, August 1st, November 1st and February 1st. **(#449A; 12-18-79)**

38-3-28 SEWER TAP-INS. The following rates or charges are hereby established for connecting to the Municipal Sanitary Sewer System of the City:

(A) Special Assessment. For connecting to a City sanitary sewer line which was installed as a part of the original sanitary sewer system of the City, where the property to be served by the connection was taxed by special assessment for the original sanitary sewer system, the charge shall be **Two Hundred Dollars (\$20000)**. **(Ord. No. 1157; 02-05-08)**

(B) No Special Assessment Paid. For a sewer line installation as a part of the original sanitary sewer system and the property to be served by the connection was not taxed by special assessment, the charge shall be **Three Hundred Dollars (\$300.00)**.

(C) **Lines Installed By.** Where the cost of installing and constructing sewer line was not paid by the City, the charge shall be **One Hundred Dollars (\$100.00)** provided, however, that for connecting to a City sanitary sewer line located in Parkview Terrace No. 1, No. 2, and No. 3, and part of Pleasant Villa Subdivision Incorporated in the City, the charge shall be **Five Dollars (\$5.00)**. (#292A; 11-02-67)

(D) **Line Paid By City.** For connecting to a City sanitary sewer line which was not established and installed as a part of the original sanitary sewer system of the City of Breese, but where the cost of installing and constructing the sewer line was paid by the City, the charge shall be **Three Hundred Dollars (\$300.00)**.

(E) **Payments.** Before a permit is issued to connect with the sanitary sewer system of the City, there shall first be paid to the City Clerk, the fees or charges hereinabove established, except that where the charge to be paid is **Three Hundred Dollars (\$300.00)** the applicant may, at his option, elect to pay the sum of **One Hundred Dollars (\$100.00)** at one time of his application, and the balance in annual installments of **Twenty Dollars (\$20.00)** each, plus interest at the rate of **six percent (6%)** per annum on the amount remaining unpaid, which interest shall also be due and payable annually. (#2684; 11-02-65)

(F) (See Water and Sewer Agreement in Exhibit "B")

38-3-29 CHARGES CONSTITUTE LIEN. The charges for connection to the sanitary sewer system shall be a lien upon the real estate for which sewerage service is supplied shall not be paid within **ten (10) days** due. If any payment for charges for system is not paid within **ten (10) days** may discontinue other municipality premises for which the sewer service is whenever any payment due of the date the payment is connection to the sewer of the date due, the City utility services to the provided.

38-3-30 - 38-3-34 RESERVED.

EXHIBIT "A"

SEWER AGREEMENTS

1. **KRUEP'S ADDITION.**

In Kruep's Addition the City shall recover its expansion in constructing the water and sewer lines by charging the following fees for each water and sewer user:

(A) **Sewer.** A **Three Hundred Dollar (\$300.00)** hook-up fee for a sewer service into the sewer main.

(B) **Sewer Extension.** A **One Hundred Dollar (\$100.00)** fee for each sewer line hook-up for excavation, materials, and labor to construct the sewer line to the edge of the lot.

(C) **Lot Fee.** A fee of **One Thousand Dollars (\$1,000.00)** per lot within the annexed area included in the agreement. Fractional lots shall pay on a proportional basis.

(D) **Options.** It is intended that a party desiring sewer service to one lot within the annexed area will pay Item A for each tap-in, Item B is optional and the party may supply excavation, labor, and materials at his own expense if he desires. Item C is required for each lot within the annexed territory included within this agreement. No water service will be supplied to any lot unless this fee shall have been paid for the lot.

If a person does pay the charge in Item C for a lot or lots which do not tap-in to the water and sewer line, he will be allowed to tap them into the water and sewer lines at a later date by paying only the regular tap-in fees at the later date.

(E) **Property of Line.** The water and sewer lines shall be the property of the City and shall be owned and operated by the City thereafter. After construction of the water and sewer system and initial tap-ins by the signatories hereto, all subsequent tap-in fees shall be set by the City ordinance.

(Ord. No. 1157; 02-05-08)

DIVISION IV - ELECTRIC RATES

38-3-35 **ELECTRIC RATES.** The rates for electric energy furnished from the municipal distribution system shall be as follows, based upon monthly readings:

(A) **Residential-Rate.**

First 30 KWH	\$	.2076 per KWH
Next 70 KWH	\$	.1379 per KWH
Next 100 KWH	\$	.1174 per KWH
Next 300 KWH	\$	.1145 per KWH
Next 500 KWH	\$	.0941 per KWH

MINIMUM CHARGE OF \$6.23 per month.

(Ord. No. 1316; 01-20-15)

(B) **Commercial Electric Rate.**

First 60 KWH	\$	.2262 per KWH
Next 140 KWH	\$	.1502 per KWH
Next 200 KWH	\$	.1241 per KWH
Next 600 KWH	\$	.1133 per KWH
Next 1,000 KWH	\$	.0997 per KWH

MINIMUM CHARGE OF \$13.57 per month.

For non-meter security light \$ 5.99 per month

For meter security light \$ 5.66 per month

(Ord. No. 1316; 01-20-15)

(C) On January 1st of each year, the above rates for Residential and Commercial Customers, the minimum charges for each, and the charges for metered and non-metered security lights shall be adjusted based on the average Consumer Price Index (C.P.I.) for urban consumers for the preceding year. **(Ord. No. 1316; 01-20-15)**

(D) **Utility Tax.** There is hereby added to the above rates a tax of **.32 cents** per kilowatt-hour of all electricity which is sold to or for each customer or **5%** of the gross receipts received from each customer from such business whichever is the lower rate as applied to each customer for the applicable billing period, pursuant to the provisions of **Chapter 35 of the Illinois Compiled Statutes, Sec. 620/2.**

(E) **Fee Schedule for Service Taps.** The following fee shall be paid for each customer requiring;

(1) **Fee - Standard 120/240 volt single phase 3 wire service.**

- (a) 200 amp service - **Three Hundred Fifty Dollars (\$350.00)**
- (b) 320 amp service - **Seven Hundred Fifty Dollars (\$750.00)**
- (c) greater than 320 amp - fee based upon cost to provide service

The fee for changing an existing overhead to underground Service Area shall be **Four Hundred Dollars (\$400.00)**.

Cost based on Maximum cable run of 100' (as measured from property line to weather head). If additional cable is required, the customer will be charged for the additional cable at **\$2.00** per foot, or at actual cost, should such cost be greater.

- (2) **Non-Standard Service.** Any person, firm or corporation requesting non-standard service shall pay fees to be determined by the City Council of the City. **(Ord. No. 1156; 02-05-08)**

38-3-36 ADDITIONAL CHARGES. In addition to the above compensation, the City shall collect a Purchased Power Adjustment on the sale of each kilowatt-hour to each customer in each rate classification. For each .01 cent modification, or decrease, or major fraction thereof, in the City's monthly purchased power cost of \$.070 cents per kilowatt-hour in the first **three (3) or four (4) months** preceding the billing period, there shall be correspondingly added to or subtracted from each customer's bill, an amount equal to .01 cents per kilowatt-hour times the total kilowatt-hours billed to the customers, on all of the above rates. **(Ord. No. 1316; 01-20-15)**

38-3-37 SUB-METERING. No sub-metering shall be permitted, except by a regular established service company or municipality who are established distributors of electric energy. Energy sold under this Chapter is for the use of the customer and not for resale.

38-3-38 ESTIMATED BILLS.

(A) In case any meter shall stop or for any reason, fail to integrate properly or upon failure to read the meter, the collector of the light department may estimate the monthly bill for electric energy. Wherever possible, estimated bills will be based on the average quantity consumed during the preceding **three (3) months** of the previous year. **One (1) month** of which shall be the same as the month under estimation. **(See Section 38-2-3 for Water and Sewer)**

(B) Whenever a customer has violated **Section 38-2-21** of this Chapter, the collector of the Utility Department shall estimate as nearly as possible the amount of electric energy obtained in violation of this Chapter, or any amendments thereto and charge the same to the customer. Such estimated bill shall not in any way interfere with or be a bar to any prosecution under the terms of this Chapter, but shall be collected from any advance payment or by any other lawful means from the customer.

ARTICLE IV - ELECTRIC SYSTEM REGULATIONS**38-4-1 APPLICATION FOR AN ELECTRIC SERVICE CONNECTION.**

An applicant desiring an electric service connection with the City's electric system shall file a written application at the City Hall, signed by the owner of the property for which the service is desired or by the duly authorized agent of such owner. The application shall be accompanied by the fee prescribed in **Section 38-3-35** to cover the installation cost of said service connection. By signing the application, the customer agrees to conform to and abide by the latest edition of the **National Electrical Code** and all rules and regulations of the City Code pertaining to the use of electrical energy by said customer. Any amendments and regulations added to this Code prior to the applicant's service connection being installed shall be complied with also.

38-4-2 INSPECTION. The application for new service shall contain a description of the premises to be served. The Superintendent or his designated representative shall have the option of making an inspection of electric wiring on the premises before electrical energy is supplied to determine the efficiency and condition of the wiring.

By inspecting the premises and approving it for electric service, the City takes no responsibility in guaranteeing the safety or adequacy of the wiring.

38-4-3 STANDARD SERVICE. The standard service voltage for all locations is **120/240 Volts Single-phase, 3-wire**. Any other service voltage or 3-phase service is considered non-standard. The minimum capacity of the service entrance shall be 100 **Amperes**. (See applicable fees in **Section 38-3-35**)

38-4-4 NON-STANDARD SERVICE VOLTAGE. There may exist locations where an existing distribution network has other than standard secondary service voltage. These non-standard voltages are **240 Volts, 3-phase, 3-wire; 120/240 Volts, 3-phase, 4-wire; and 480 Volts, 3-phase, 3-wire**. These systems are not necessarily being expanded as an obligation to the City and in certain cases, a new service may be installed at the existing voltages in the electrical network. If a non-standard service voltage or 3-phase service is desired, the owner shall consult with the Public Works Director before purchasing heavy duty residential, commercial or industrial equipment for installation on the electrical system. If it is practical, in the opinion of the Public Works Director, the nonstandard service voltage may be provided, however, the owner shall pay for **fifteen percent (15%)** of the first **Two Thousand Dollars (\$2,000.00)** in cost, then shall pay **fifty percent (50%)** of the rest of the cost for transformers and metering. (Ord. No. 1161; 02-05-08)

38-4-5 **TYPES OF CUSTOMER SERVICE CONNECTIONS.** The following types of customer service connections are provided by the electrical system:

(A) **Overhead Connection - Overhead Service Area.** Overhead service shall be delivered to the individual residence by means of overhead cable from the electric system pole structure to a designated point on the dwelling of sufficient height to comply to applicable code clearances. The location of the service entrance shall be such as to provide for the shortest route from the structure to the home as practical. The owner or contractor shall provide the service head, riser conduit, and all other materials and installations required to make a complete installation. Conductor tails of **two (2) foot** lengths shall extend out the riser weatherhead to facilitate making connections to the triplex service conductors provided by the electrical system. Service lengths installed by the electrical system shall be limited to **one hundred (100) feet** from the property line. Any additional length of conductors or additional support facilities shall be installed by the electrical system only at the customer's expense. Meter sockets shall be provided by the City, but installed by the owner or the owner's contractor, and shall be located at a height of **five (5) feet** above final grade with all meters located outside of any building, dwelling or restricted area.

(B) **Underground Connection - Underground Service Area.** In areas designated underground services, the services shall be delivered to the residences by means of a buried triplex cable from pedestal, vault or pad mount transformer located on or near the property line to a point designated on the dwelling. The location of the service entrance shall be such as to provide the shortest routes from the pedestal, vault or pad-mounted transformer to the houses as may be practical. All obstructions such as debris, dirt piles, brush, etc., shall be removed prior to the installation of service, and a lot shall also be graded to within **one (1) foot** of final grade. The owner or contractor shall provide the necessary equipment to provide a complete installation as indicated on the attached drawings. Service length installed by the electrical system shall be limited to **one hundred (100) feet** from the property line. Any additional length of service shall be installed by the electrical system at the customer's expense.

Underground service is not guaranteed by the electrical system as circumstances may force service to be provided to any location by overhead service.

(C) **Underground Connection - Overhead Service Area.** Underground service in an overhead service area will be available, provided engineering considerations will not prohibit service, in the opinion of the Superintendent. The conversion of existing overhead service to underground services shall be available as time and work load permit with the approval of the Superintendent.

(D) **Overhead Service - Underground Service Area.** Overhead service in an underground service area will not be permitted unless, in the opinion of the Superintendent, that due to the engineering considerations, this is the only feasible and practical manner in which service may be provided.

38-4-6 **METERING.** The following rules and regulations shall be adhered to:

(A) **Meters Required.** All locations of customer service by the electrical system shall be metered. Meters shall be provided and installed by the Electrical Department. If, in the opinion of the Superintendent, the situation dictates that a service shall go unmetered due to the lack of a proper meter, the customer will be billed on a flat rate, as determined by the City. All apartments or multi-constructed units shall be provided with individual meters.

(B) **Location.** All meters shall be mounted on an exterior wall in an easily accessible location as designated by the Superintendent or his designated representative.

(C) **Testing.** Any municipal electrical meter shall be taken out of service and tested upon complaint of the consumer upon payment of a fee of **Fifteen Dollars (\$15.00)**. If, upon testing, the meter is not within **three percent (3%)** of being accurate, it shall be repaired or replaced and the **Fifteen Dollar (\$15.00)** fee returned to the consumer. If the meter is within **three percent (3%)** of being correct, the fee will not be refunded.

(D) **Meters Stopped or Registering Inaccurately.** [See Section 38-2-1(L)].

(E) **Tampering.** [See Section 38-2-1(D).]

38-4-7 **USE OF SERVICE.** The following rules of service shall apply:

(A) The Superintendent may deny service to a customer when, in his opinion, the wiring and equipment is unsafe, outside clearances are insufficient, or such proposed service has objectionable characteristics. However, the City will cooperate with the customer in order to determine the necessary remedial action for such characteristics.

All of the customer's lighting equipment, motor driven equipment, apparatus, and appliances shall have such characteristics or be equipped with corrective devices so as to enable the City to maintain a satisfactory standard of electric service. In the case of high motor starting current, violently fluctuating or intermittent loads, etc., the City reserves and shall have the right to require the customer to install, at the customer's expense, transformers and apparatus to correct the objectionable conditions. (These may include welders, hoists, elevator motors, pumps, and similar apparatus.)

(B) When a separate or oversized substation or transformer must be installed specifically to eliminate the effect of the objectionable load characteristic and the distribution system would otherwise have the capacity and equipment required to supply a normal load service of the same size, or where separate transformers and/or services are installed at the customer's request to supply apparatus which may be abnormally sensitive to voltage, the cost of such substation or transformer is considered a corrective device under paragraph (A) above and shall be provided at the customer's expense.

(C) The utilities retain rates that are applicable to industrial and commercial services which are based on all such customers maintaining a power factor of not less than **ninety percent (90%)** lagging. In the event a customer's power factor is less than **ninety percent (90%)** during periods of normal operation, the City reserves the right to require the customer to install, at his own expense, such corrective equipment as may be required to increase the customer's power factor to not less than **ninety percent (90%)**.

(D) When a customer fails to install the necessary facilities on his premises to correct the objectionable conditions from interfering with the City's supply of satisfactory service to other customers, the City shall have the right to deny service to such customer until the objectionable conditions shall have been corrected in a manner satisfactory to the City.

(E) When corrective equipment is installed by the City on its distribution system to correct any objectionable conditions, the customer whose service caused the objectionable conditions will be required to pay the City, without refund, the installed cost of such corrective equipment and the corrective equipment shall remain the property of the City. In lieu of such payment and subject to approval by the City, a customer may elect to pay a monthly charge equal to **1.25%** of the installed cost of such corrective equipment installed by the City.

38-4-8 INCREASE IN CUSTOMER'S LOAD. When a customer makes application for service, he shall specify the amount of electrical load to be connected to the electric system so that the City may determine the adequate service of sufficient capacity for the operation of the equipment to be serviced.

The customer's connected load shall not be increased beyond the limits hereinafter stated until the customer has given written notice to the City Collector and the additional load has been approved by the Superintendent, unless the load increases a total of **three (3) HP or less**, or electrical additions total **twenty (20) amperes or less**, in which case an electrical load increase will not require notification.

If a customer does not give proper notice of increased electrical load, the customer shall be liable for any damage to the equipment of the electric system resulting from the increased load. Furthermore, any person who installs additional electrical loads in excess of those loads not requiring notification without reporting to the City Collector and obtaining approval of the Superintendent of Utilities shall, upon conviction of such failure to notify, be fined not less than **Twenty-Five Dollars (\$25.00)**, nor more than **One Hundred Dollars (\$100.00)**.

The City may elect to refuse to furnish electrical energy to any person or corporation found guilty of failing to report an increased electric load that requires such notification.

38-4-9 RESPONSIBILITY FOR CONTINUITY AND QUALITY OF SERVICE.

(A) The City endeavors to furnish continuous and adequate service; however, it cannot guarantee the service as to continuity, freedom from voltage and frequency variations or reversal of phase rotation, and will not be responsible or liable for damages to customers' apparatus resulting from such failure or imperfection of service. In cases where such failure or imperfection of service might damage a customer's apparatus, the customer shall install suitable protective equipment.

(B) Emergencies may arise in which it is essential for the City to immediately take lines or equipment out of service, for repairs, and to prevent damage to life or property or to prevent a more serious interruption of service. The City reserves the right to take lines or equipment out of service under such conditions and will attempt to give customers advanced warning of such interruptions as conditions may permit.

(C) The City further reserves the right to take lines and equipment temporarily out of service for short periods for maintenance and changes in construction. Such outages will be planned at a time convenient to customers involved, if at all practical and possible.

38-4-10 MOTORS AND APPARATUS. Regulations pertaining to motors and apparatus shall be as follows:

(A) The City reserves the right to select the type of service to be supplied and shall be consulted before equipment is purchased or ordered by a customer regarding the general characteristics of service, including those services having motors **5 HP and larger** or where the aggregate load of smaller motors is more than **7 1/2 HP**.

(B) In general, **7 1/2 HP and larger motors** will be 3-phase and motors smaller than **7 1/2 HP** will be single-phase. There may be, at the City's sole discretion, exceptions to this rule.

- (1) In outlying and residential areas where 3-phase energy is not readily available, larger single-phase motors may be permitted, but only with the prior approval of the Superintendent.
- (2) Where the customer is already using 3-phase energy, motors smaller than **7 1/2 HP** may be added to the 3-phase service, upon notification to the City, if elsewhere required.
- (3) Three-phase service is not normally available for residential customers and is considered non-standard service.

(C) Motors and motorized equipment will generally be approved for use on the electric system only if the Total Locked Rotor Current does not exceed an acceptable level, as determined by the Superintendent.

(D) If starting currents are objectionable and will cause interference on the electric system, in the judgment of the Superintendent, reduced voltage starting or such other methods as the Superintendent determines feasible will be required to be furnished by the customer.

38-4-11 RENTED DUSK-TO-DAWN LIGHTS. Private lighting luminaires (dusk-to-dawn lighting services) for home, schools, security, churches, commercial areas, and industry shall be provided where feasible and in keeping with good electrical practice, as per the following specifications:

(A) A self-contained, automatic, Dusk-to-Dawn Mercury Vapor lighting fixture shall be furnished and installed, or caused to be installed, by the City. Such fixture shall meet the standards and specifications of the City on existing wood pole structures for the customer's use at a monthly charge rate as set out in **Section 38-3-35** for a minimum **two (2) year period**. The charge will be added to the customer's monthly utility bill and shall become an integral part of said bill.

The City will be responsible for making the installation, furnishing the electricity for the operation of the lamp, provide all the necessary maintenance (including the replacement of lamps, but excluding malicious damage) for the **two (2) year period** and all subsequent time additions to the length of service, as agreed to by the City.

(B) Should the installation of a standard lighting unit require the installation by the electrical system of additional facilities not required by the City for distribution purposes other than the private outdoor lighting to be installed, the Electric Department will furnish, install, own and maintain the additional facilities (including wood poles), which may be necessary to provide such lighting from nearby distribution lines. The Electric Department will make a net monthly charge, in addition to the charge set forth above, of **one and one-quarter percent (1 1/4%)** of the additional cost to the Electric Department for the furnishing and installing such additional facilities.

(C) A **two (2) year minimum contract** shall be agreed to and signed by each customer desiring Dusk-to-Dawn Lighting Service, authorizing fixed monthly charges to be applied to the monthly electric utility bill. In the event that a customer desires the removal of the unit or discontinuance of the service, the remainder of the charges to complete the **two (2) year contract** shall become due and payable by the customer.

(D) Dusk-to-Dawn Lighting shall be installed on wood poles with a normal ground-to-lamp height of approximately **twenty-five (25) feet**. Should a customer desire his lighting on steel, aluminum, concrete, or decorative-type poles and/or underground cable installation, the Electric Department may, at its discretion, install or cause the special service to be installed. The customer shall bear the total cost that is above that of a normal wood pole installation and the additional charge shall be paid by the customer prior to installation.

(E) The customer shall have the responsibility to notify the Electric Department of any interruption of service of the Dusk-to-Dawn Lighting. The Electric Department will restore service only during regularly scheduled working hours and shall, in any event, be under no obligation to do so before **seventy-two (72) hours** from the time of notification. In the event the Electric Department is unable to effect repairs not caused by the customer within this period, the Electric Department's only responsibility will be to abate the charges on a pro-rata basis for each day after **seventy-two (72) hours** in which service is not available. The customer shall remove any obstruction to the installation of the City-owned facilities. Trimming of trees to improve the distribution of light shall be the customer's responsibility. The customer shall provide any permits or easements required for the installation or maintenance of the City-owned facilities and permit access to such facilities by the Electric Department's vehicles and personnel. A lighting agreement shall be substantially in the form provided for in **Appendix "F"**.

38-4-12 CONSTRUCTION OF SERVICE. All construction of service connections shall be generally in accordance with the drawings (located at the end of this Chapter) unless otherwise approved by the Superintendent.

38-4-13 TRIMMING TREES. No trees shall be, in any manner, cut or trimmed in any of the streets, alleys, sidewalks or public places in this City, where such cutting or trimming is not absolutely necessary to the successful operation of any electric, telephone or telegraph lines or system, and unless such trimming is done under the immediate direction of the Superintendent and no trees shall be so cut or trimmed on the property of any private person without the consent of the owner.

All trees necessarily trimmed as aforesaid shall be so trimmed that they may retain their original form and usefulness as nearly as may be, and as not to be mutilated or rendered unsightly or useless for shade or other purposes, or unnecessarily prevented or retarded from following their natural growth and development. Whenever, by resolution, the Council deems it expedient, it may require any reasonable change or replacing of any pole or wire which unduly interferes with the growth of trees or any system of tree planting in this City, subject, however, to the vested and lawful right of the owners of such poles or wires.

38-4-14 UTILITY POLE REGULATIONS. The terms, conditions, rates and regulations for attachment to utility poles and placement of facilities in the City is hereby found in **Exhibit "C"** at the conclusion of this Chapter. **(Ord. No. 1077; 10-19-04)**

38-4-15 - 38-4-19 RESERVED.

ARTICLE V - SEWER SYSTEM

DIVISION I - DEFINITIONS

38-5-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Code shall be as follows:

"GOVERNMENT, FEDERAL":

(A) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency. **(Ord. #449A; 12-18-89)**

(B) **"Federal Act"** means the Federal Water Pollution Control Act **(33 U.S.C. 1251 et seq.)** as amended by the Federal Water Pollution Control Act of Amendments of 1972 (Pub. L. **92-500**) and **(Pub. L. 93-243)**.

(C) **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations. **(#449A)**

"GOVERNMENT, LOCAL":

(A) **"Superintendent"** shall mean the Superintendent of Sewage Works and/or of Water Pollution Control 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 Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C) **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

"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 (5) feet (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive wastewater, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve **one (1)** or more persons and ultimately discharge into the City sanitary sewer or combined sewer system, even though those sewers may not have been constructed with City funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storms, surface and groundwater drainage.

(H) **"Sewerage"** shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

(I) **"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 for operation maintenance and replacement.

(B) **"Capital Cost Charge"** shall mean the assessment levied on all users of the public sewer system for depreciation and debt service. (**#449A; 12-18-89**)

(C) **"Depreciation"** shall mean expenditure to establish a sinking fund for replacement of major treatment units at the expiration of the facilities' useful life.

(D) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding and shall be computed by dividing the annual debt service by the number of users connected to the Wastewater Facilities.

(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 and shall be **twenty (20) years** from the date of start-up of any wastewater facilities constructed with a State grant.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation and maintenance.

(J) **"Wastewater Service Charge"** shall be the charge per quarter or month levied on all users of the Wastewater Facilities.

(K) **"Rebate"** shall mean the discounting or return of a prorated portion of the wastewater service charge up to but no more than the debt service charge for each individual bill.

"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 mean any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (1) Division A - Agriculture, Forestry and Fishing
- (2) Division B - Mining
- (3) Division D - Manufacturing
- (4) Division E - Transportation, Communications, Electric, Gas and Sanitary Services
- (5) Division I - Services

A user in the Divisions listed may be excluded if it is determined by the Superintendent excluding domestic wastes or discharges from sanitary conveniences that it will introduce wastewater of **25,000 gallons** per day or less and that the wastewater does not contain substances detrimental to the operation of the municipal treatment works. (**#449A; 12-18-79**)

(C) **"Residential or Commercial" or "Non-industrial"** user shall mean any user of the treatment works not classified as an industrial user or excluded as an industrial user as provided for in this Section.

(D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.

"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, 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 “Standard 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 0.21 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 (1/2) inch (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) **“Standard Methods”** shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

(O) **“Suspended Solids”** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in "Standard Methods".

(P) **“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.

(Q) **“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.

(R) **“Water Quality Standards”** are defined in the Water Pollution Regulations of Illinois.

38-5-2 - 38-5-3 RESERVED.

DIVISION II

USE OF PUBLIC SEWERS REQUIRED

38-5-4 **DEPOSIT OF WASTES.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

38-5-5 **SEWAGE IN NATURAL OUTLET.** It shall be unlawful to discharge to any natural outlet within the City, or in area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Code.

38-5-6 **PRIVATE SYSTEM, UNLAWFUL.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

38-5-7 **CONNECTION TO SYSTEM REQUIRED.** The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the City and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary (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 **one hundred fifty (150) feet** of the nearest property line.

DIVISION III

PRIVATE SEWAGE DISPOSAL

38-5-8 **PRIVATE SEWAGE SYSTEM.** Where a public sanitary sewer is not available under the provisions of **Section 38-5-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Division.

38-5-9 **PRIVATE SEWER SYSTEM APPROVAL.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the City. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the City. A permit and inspection fee of **Five Dollars (\$5.00)** shall be paid to the City at the time the application is filed. The fee is not refundable.

38-5-10 **PRIVATE SEWAGE SYSTEM PERMIT.** A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. 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 City when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **three (3) working days** of the receipt of written notice by the City.

38-5-11 **PRIVATE SEWAGE SYSTEM DESIGN CRITERIA.** 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 **ten thousand (10,000) square feet**. No septic tank or cesspool shall be permitted to discharge to any natural outlet unless approved by the State Department of Public Health and the Superintendent.

38-5-12 **UTILIZATION 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 38-5-7**, the building sewer shall be connected to the sewer within **sixty (60) days** and the private sewage disposal system shall be cleaned of sludge and waste material which shall be disposed of in a lawful sanitary and proper manner, and the private disposal system shall be filled with clean bank-run gravel or dirt.

38-5-13 **O & M OF PRIVATE SEWAGE SYSTEM.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.

38-5-14 **ADDITIONAL REQUIREMENTS OF PRIVATE SEWAGE SYSTEM.** No statement contained in this Division shall be construed to interfere with any additional requirements that may be imposed by the County or State Health Department or other agencies having lawful jurisdiction.

DIVISION IV

BUILDING SEWERS AND CONNECTIONS

38-5-15 DISTURBING SYSTEM UNLAWFUL. No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

38-5-16 COMPLIANCE WITH REGULATING AUTHORITIES. All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-5-17 CLASSES OF PERMITS.

(A) There shall be **two (2) classes** of building sewer permits as follows:

- (1) Residential and commercial service.
- (2) Service to establishments producing industrial wastes.

(B) In either case, the owner or his agent shall make applications on a special form furnished by the City.

(C) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

38-5-18 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.

38-5-19 SEPARATE SEWER: EXCEPTION. A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

38-5-20 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 City, to be of similar material and construction to that required of new sewers.

38-5-21 CONSTRUCTION METHODS. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9, and **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

38-5-22 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 an approved means and discharged to the building sewer.

38-5-23 PROHIBITED CONNECTIONS. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

38-5-24 BUILDING AND PLUMBING CODE APPLICABLE. 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.

38-5-25 CAPACITY OF SEWER. A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-5-26 **INSPECTION.** The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative after the roof structure is constructed.

38-5-27 **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.

DIVISION V

USE OF PUBLIC SEWERS

38-5-28 **DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, ground water roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-5-29 **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 City. Industrial cooling water or unpolluted process waters may be discharged on approval of the City, to a storm sewer, or natural outlet.

38-5-30 **REGULATIONS OF WASTES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solids, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-5-31 **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 City 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 City 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.

38-5-32 HARMFUL WASTES; APPROVAL.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in **Section 38-5-31** of this Division, and/or which are in violation of the standards for pretreatment provided in Chapter 1, "EPA Rules and Regulations", Subchapter D, Water Programs Part 128 Pretreatment Standards, Federal Register Volume 38, No. 215 Thursday, November 8, 1973 and any amendments thereto, and which in the judgment of the City 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 City 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 38-5-38.**

(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 City, 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.

38-5-33 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 Village 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 carryover 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 Village wastewater collection and treatment system may be liable to the Village 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 Village or his representative upon request.

(D) **Submittal of Records.** Each user shall submit all cleaning and maintenance records to the Village. 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 Village 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 Village will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the Village, the user shall be required to perform the maintenance and records of said maintenance within **fourteen (14) calendar days**. Upon inspection by the Village 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 Village 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 Village 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.

38-5-34 **FLOW-EQUALIZING FACILITIES.** Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

38-5-35 **INDUSTRIAL WASTES CONTROL MANHOLE.** Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

38-5-36 **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.

38-5-37 **MEASUREMENTS AND TESTS.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of IEPA Division of Laboratories Manual of Laboratory Methods, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

38-5-38 **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.

DIVISION VI
INSPECTIONS

38-5-39 **DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-5-40 **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.

38-5-41 **LIABILITY OF CITY.** While performing the necessary work on private properties referred to in **Section 38-5-40** above, the City or duly authorized employees of the City, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-5-35.**

38-5-42 **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.

DIVISION VII - PENALTIES

38-5-43 **NOTIFICATION OF VIOLATION.** Any person found to be violating any provision of this Chapter, except Article VI, 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, or violation of regulations of other agencies having lawful jurisdiction. Upon revocation of any permit to discharge, the person violating the ordinance or regulation shall cease and desist discharge of wastewater or industrial waste to the public sewer system and treatment works, and shall not continue the discharge in any manner which would violate State, Federal or local pollution control laws and regulations.

38-5-44 **FINE.** Any person who shall continue any violation beyond the time limit provided for in **Section 38-5-43** shall be guilty of a misdemeanor and on conviction thereof shall be fined in the amount not exceeding **Five Hundred Dollars (\$500.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

38-5-45 **EXPENSE.** Any person violating any of the provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

DIVISION VIII - INDUSTRIAL COST RECOVERY

38-5-46 INDUSTRIAL COST RECOVERY REQUIRED. Each industrial user as defined in **Section 38-5-1(J)(iii)** shall pay that portion of any State grant which has been obtained by the City for the financing of the construction of wastewater treatment works allocable to the treatment of the wastewater from such user. Such users share shall not include an interest component.

38-5-47 DETERMINATION OF INDUSTRIAL USER COST. An industrial user's portion of any State grant shall be based on the population equivalents attributable to wastewater of such user tributary to the wastewater treatment works of the City.

The population equivalents shall be determined as follows:

(A) **Volume Population Equivalent.** This population equivalent equals the average daily rate of water consumption as determined by the consumption records of the past year divided by **one hundred (100) gallons** per day (the average domestic water consumption) or, where water consumption does not reflect the actual quantity of wastewater tributary to the treatment works from such user, then the average daily flow as recorded in the control manhole required by **Section 38-5-35**, divided by **one hundred (100) gallons** per day (the average domestic water consumption).

(B) **BOD Population Equivalent.** This population equivalent equals the average daily pounds of BOD in the wastewater as determined by the Superintendent in accordance with **Section 38-5-37** divided by **0.20 pounds** of BOD per day (the average per capita BOD of non-industrial discharges).

(C) **SS Population Equivalent.** This population equivalent equals the average daily pounds of suspended solids in the wastewater from such user as determined by the Superintendent in accordance with **Section 38-5-37** divided by **0.22 pounds** of suspended solids per day (the average per capita SS of non-industrial discharges).

(D) **Cost per Capita.** The dollar cost per capita shall be determined as follows:

$ICR_{Qi} / P.E. = \text{Industrial Cost Recovery per capita (Population Equivalent - P.E.) attributed to flow.}$

$ICR_{Qi} / P.E. = \frac{\text{(Capital Cost of Treatment Facility Attributable to Industry)}}{\text{Design P.E., Grant Project}} \times \frac{\% \text{Attributed to Flow}}{100}$

$ICR_{Qi} / P.E. = \frac{(\$1,984,149.)}{4,792 \text{ P.E.}} (0.47) \times .75$

$$ICR_{Qi}/P.E. = \$145.95/\text{Capita}$$

$$ICR_{BODi}/P.E. = \text{Industrial Cost Recovery per capita (Population Equivalent - P.E.) attributed to BOD.}$$

$$ICR_{BODi}/P.E. = \frac{\text{(Capital Cost of Treatment Facility Attributable to Industry)} \quad \% \text{Attributed to BOD}}{\text{Design P.E., Grant Project}}$$

$$ICR_{BODi}/P.E. = \frac{(\$1,984,149.) \quad (0.30) \times \quad .75}{4,792 \text{ P.E.}}$$

$$ICR_{BODi}/P.E. = \$93.16/\text{Capita}$$

$$ICR_{SSi}/P.E. = \text{Industrial Cost Recovery per capita (Population Equivalent - P.E.) attributed to Suspended Solids (SS).}$$

$$ICR_{SSi}/P.E. = \frac{\text{(Capital Cost of Treatment Facility Attributable to Industry)} \quad \% \text{Attributed to SS}}{\text{Design P.E., Grant Project}}$$

$$ICR_{SSi}/P.E. = \frac{(\$1,984,149.) \quad (0.23) \times \quad .75}{4,792 \text{ P.E.}}$$

$$ICR_{SSi}/P.E. = \$71.42/\text{Capita}$$

(E) **Cost for Industrial User.** The cost to be recovered from an industrial user (CI) shall be determined as follows:

$$AICR_{Qi} = \frac{\text{Average Daily Flow Gallons}}{\text{Useful Life (Treatment Works)}} = \frac{100}{\text{Useful Life (Treatment Works)}} \quad (\$145.95)$$

$$AICR_{BODi} = \frac{\text{Average Daily BOD, Pounds}}{\text{Useful Life (Treatment Works)}} = \frac{0.22}{\text{Useful Life (Treatment Works)}} \quad (\$93.16)$$

$$AICR_{SSi} = \frac{\text{Average Daily SS, Pounds}}{\text{Useful Life (Treatment Works)}} = \frac{0.22}{\text{Useful Life (Treatment Works)}} \quad (\$71.42)$$

$$CI = AICR_{Qi} + AICR_{BODi} + AICR_{SSi}$$

Where $AICR_{Qi}$ = Annual Industrial Cost Recovery payment attributable to flow.

$AICR_{BODi}$ = Annual Industrial Cost Recovery payment attributable to BOD.

$AICR_{SSi}$ = Annual Industrial Cost Recovery payment attributable to Suspended Solids.

CI = Total Annual Industrial Cost Recovery Payment.

38-5-48 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REQUIRED ADMINISTRATIVE PROCEDURES.

(A) **Charge for Industrial Cost Recovery.** Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay the cost recovery amount determined by **Section 38-5-47** for such industry, divided by the recovery period. Where an industry is connected to a public sewer after the start-up of the facilities constructed under a Federal grant, such industry shall only pay its portion of the Federal grant for each month remaining in the recovery period. Such industry will not be required to pay for those months of the recovery period prior to connection to a public sewer.

(B) **Length of Industrial Cost Recovery Period.** The industrial cost recovery period shall be equal to the useful life of the treatment works which shall be **thirty (30) years** from 1979.

(C) **Payments and Billing Periods for Industrial Cost Recovery.** All industrial users of the City shall pay the cost as determined by **Section 38-5-48(A)** for industrial cost recovery and such payments shall be made monthly on the **tenth (10th) day** of the month immediately following the expiration of the month for which service has been supplied, and such charge shall be payable within **ten (10) days** after rendition thereof, and in the event such bills are not paid within the **ten (10) days**, a service charge of **five percent (5%)** shall be added thereto. An industrial user may wish to fulfill its industrial cost recovery obligation by making a lump sum payment for its entire share of the cost of construction of the treatment works. In this event, such payments may be accepted by the City and either processed as a normal Industrial Cost Recovery payment, or set aside in a separate amount to be drawn on annually for the remainder of the industrial cost recovery period. Lump sum payments by an industry will not relieve an industrial user from the obligation of making additional future payments should its wastewater flow or load increase. Discounts from the total industrial cost recovery requirement will not be given to industrial users making advance or lump sum Industrial Cost Payments. No interest component shall be included in the cost component charged to an industrial user, irregardless of the lump sum or monthly payment method selected by the industrial user. Any interest earned by the City on Industrial Cost Recovery payments set aside will be recoverable in the same manner as if the payments were made as due **(40 CFR 35.928-2a)**.

(D) **Delinquency and Termination of Service.** If the delinquency in the payment of the recovery cost continues for a period of more than **thirty (30) days**, the sewer service shall be discontinued. In the event the charges for industrial cost recovery are not paid within **sixty (60) days** after the rendition of that bill, then such service charges shall be deemed and are hereby declared to be delinquent, and thereafter such delinquent charge shall constitute a lien upon the real estate for which such sewer services were supplied. The City Clerk is hereby authorized and directed each month to file sworn statements showing such delinquencies in the office of the Recorder of Deeds of Clinton County, Illinois, and the filing of such statements shall be deemed notice of a lien for the payment of such charges for sewer service.

(E) **Time of First Payment.** The initial payment made by and industrial user which is connected to a public sewer after the start-up of the treatment works constructed with a Federal grant shall be made by the next scheduled due date as defined in **Section 38-5-48(C)** and shall be equal to **one-twelfth (1/12)** of the amount as determined by **Section 38-5-48(C)** times the number of months of service in that calendar year.

(F) **Adjustment of Charge Due to Strength or Volume Changes.** If there is a change in the strength and/or volume introduced into the treatment works by an industrial user as determined by the previous year records, the City shall adjust the users portion of any Federal Grant accordingly.

(G) **Adjustment of Charge Due to Plant Improvement Utilizing Federal Grant Funds.** If there is an expansion or upgrading of the treatment works utilizing a Federal grant, each existing industrial user's share shall be adjusted accordingly.

(H) **No Charge for Unused or Unreserved Capacity.** An industrial user's portion of any Federal Grant shall not include any portion of the grant amount allocable to unused or reserved capacity.

(I) **Commitment For Increased Use.** An industrial user's portion of any Federal Grant shall include allowance for the cost of any firm commitment to the City for any increased use by such user.

(J) **Payment to the State of Illinois Required.** The City shall retain **fifty percent (50%)** of the amounts recovered from industrial users. The remainder, together with any interest earned thereon, shall be returned to the United States Treasury, on an annual basis.

(K) **Disposition of Retained Amount.** **Eighty percent (80%)** of the retained amounts, together with interest earned thereon, shall be used solely for the eligible costs of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the Federal Act and the State of Illinois. The City, prior to commitment of the retained amounts shall obtain written approval of the United States Environmental Protection Agency for any expansion or reconstruction of treatment works associated with the project and necessary to meet requirements of the Federal Act and the State of Illinois. The City, prior to commitment of the retained amounts shall obtain written approval of the United States Environmental Protection Agency for any expansion or reconstruction. The remainder of the retained amounts may be used for such expenditures as the City deems appropriate.

(L) **Investment of Retained Amounts Required.** Pending use, the grantee shall invest the retained amounts for reconstruction and expansion in:

- (1) Obligations of the U.S. Government; or
- (2) Obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof; or
- (3) Shall deposit such amounts in accounts fully collateralized by obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof.

(M) **City Clerk Responsibility.** The City Clerk shall maintain the necessary records for determination of user share of the cost and shall provide the billing and collection services as required.

(N) **City Treasurer Responsibility.** The City Treasurer shall be responsible for the investment and expenditure of all moneys collected for industrial cost recovery in accordance with **Section 38-5-48(J), (K) and (L).**

(O) **Monitoring Required.** The Superintendent shall maintain a program of monitoring industrial user discharges as the City deems necessary, provided that any major contributing industry shall be monitored no less than **twelve (12) times** annually and any industrial user that has a population equivalent as determined by **Section 38-5-1(F)** "Population Equivalent"; greater than or equal to **fifty (50)** shall be monitored no less than once annually. All other industrial users shall be monitored at such frequency as deems necessary by the Superintendent for determination of the population equivalent of the industrial user. The monitoring data collected shall be used to determine the population equivalent in accordance with **Section 38-5-47.**

(P) **Appeal and Arbitration.** The City shall establish industrial cost recovery charges as set forth herein, and in accordance with applicable State and Federal guidelines and requirements, and shall notify any industry which requests a permit to discharge into the public sewerage system of the industrial cost recovery charges to be levied. The notification from the City to the industry shall be in writing, and shall be submitted to the industry within **thirty (30) days** after the industry has made application for a connection/discharge permit and has provided complete and satisfactory information regarding the volume and character of the waste, and has submitted plans for a control manhole with appurtenances, and has received a permit from the Environmental Protection Agency. The City may provide preliminary information regarding industrial cost recovery charges to be levied, but actual charges to be levied shall not be determined until after the above and other stipulations of the Code have been complied with by the industrial user to the satisfaction and approval of the City.

In the event that the industrial user, or other persons affected by the industrial cost recovery system and charges, wishes to have a hearing regarding the reasonableness of the industrial cost recovery charges imposed by the City in accordance with State and Federal regulations, the industry or person shall duly notify the City in writing and request an administrative hearing before the City Council within **thirty (30) days** after the industry has been informed of the actual charges to be levied by the City. Actual discharge of industrial

waste to the City system shall not commence until the industry has issued to the City written concurrence with the industrial cost recovery charges. The City shall conduct the administrative hearing within **thirty (30) days** after receipt or written request for the hearing, and the City shall duly notify the industrial user or person, and other interested parties in writing at least **fifteen (15) days** prior to the hearing date, and identify the time, date, and location of the administrative hearing. The Mayor of the City shall serve as the hearing officer, and all testimony received (including written documents) shall be entered into the records of the City, as in official meeting of the City Council. The notice of the administrative hearing shall be published in the legal notice section of a newspaper of local distribution at least **fifteen (15) days** prior to the date of the hearing. The legal notice shall state the purpose of the hearing, time, date, and place of the hearing. All interested parties shall be given ample opportunity to enter testimony into the record of the administrative hearing.

In the event the City and industrial user cannot agree to the reasonableness of the charges, and the compliance of the charges with regulations set forth by the State and Federal EPA, the industry may request a hearing before representatives of USEPA within **ten (10) days** after the City administrative hearing has been conducted. The City and the industrial user, or the person, shall abide by the decision of USEPA regarding the reasonableness of the industrial cost recovery charges to be levied by the City. In all cases, the Industrial Cost Recovery System and charges shall be in accordance with applicable State and Federal Regulations.

(Q) **Discontinuance of Use By Industrial Users.** If an industrial user discontinues use of the treatment works (including termination of any agreement for use of reserve capacity), its payment for industrial cost recovery will cease. There shall be no requirement for other industrial users using the treatment works at that time to assume the portion of the Industrial Cost Recovery System payment which is unrecovered due to the departure or discontinuance of service by an industrial user.

If the City chooses to require an industrial user to pay termination of services charges allocable to costs associated with the Industrial Cost Recovery System, payment to the City for such charges shall be in accordance with an agreement stipulating such conditions at the time the City and industrial user mutually agree to conditions of service. Such an agreement shall be in writing, and cannot contain an interest component. Funds recovered in such a manner may become the property of the City, unless otherwise stipulated by applicable State or Federal regulation.

(R) **Reserve Capacity.** The City may choose to permit industrial users to reserve capacity in the treatment works. Such capacity shall be reserved through a formal, written agreement which shall be subject to requirements of the Industrial Cost Recovery System contained herein and in State and Federal regulations.

If the City agrees to allow an industrial user to reserve capacity in the treatment works, the industrial user shall be required to pay the full amount of the industrial cost recovery charges calculated on the full capacity plus additional industrial cost recovery charges for use above the limits of the reserved capacity or any element thereof.

In the event the treatment works are expanded or upgraded in the future with State or Federal grant assistance, an industrial user that has executed a reserve capacity agreement and has made industrial cost recovery payments based upon full reserved capacity will not incur additional industrial cost recovery charges associated with the cost of expansion of capacity of existing unit processes associated with treatment, until the industrial user's actual use of the treatment works exceeds its reserved, agreed upon capacity.

Industrial users without reserved capacity contracts will be required to pay an additional industrial cost recovery charges associated with the cost of expanding or upgrading the treatment works.

38-5-49 **EFFECTIVE DATE OF RATES.** The rates and service charges for User Charges and Industrial Cost Recovery established herein shall be effective as of **September 5, 1978**, and on bills to be rendered for the next succeeding quarter being **October 1, 1978**, for quarterly users.

ARTICLE VI - WATER SYSTEM REGULATIONS**DIVISION I - GENERALLY**

38-6-1 APPLICATION FOR SERVICE CONNECTIONS TO WATERWORKS SYSTEM. An applicant desiring a water service connection with the City Waterworks System 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 prescribed in **Section 38-2-15** 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. As soon as possible thereafter, the Superintendent shall authorize a service tap connection to be made and a service line laid to the lot line of the applicant's property.

38-6-2 ALL SERVICE TO BE BY METER. All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed so as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Superintendent. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner or the applicant have been fully complied with.

38-6-3 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.

38-6-4 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 the service without notice and without any liability for damages direct or resulting therefrom.

38-6-5 **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 will 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. All owners and consumers shall remove any existing ground wires immediately upon written notice from the City. If not so disconnected within **five (5) days** of written notice, the City, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

38-6-6 **LIABILITY OF OWNER.** The owner shall be liable for any future expenses for the alteration and repair, extension or other changes to the water line up to and where it connects with the City water main.

38-6-7 **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 or any shut-off of water supply 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.

38-6-8 **LAWN WATERING.** The right is reserved to suspend the use of lawn fountains, hoses for sprinkling lawns and gardens and car washing whenever, in the opinion of the City Council, public exigencies require it.

38-6-9 **NON-COMPLIANCE WITH RULES.** If any consumer fails to comply fully 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 cases of non-payment, emergency, necessity, or as otherwise provided, the City will not discontinue service for violation of any rules until **five (5) days** after notice has been given and the existing violation has not been remedied.

38-6-10 **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 Water System of the City. The City shall have the right and option to demand change or discontinuance 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 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.

38-6-11 FIRE HYDRANTS.

(A) All hydrants shall be owned, maintained and used only by the City. Use of water from the fire hydrants by contractors and others shall be only upon permission by the City 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 the City Limits or the pressure or amount of water obtainable therefrom or any damages, either direct or resultant because of the condition, pressure, or amount of water available from any fire hydrant.

(C) All public fire hydrants outside any City Limits which are owned by the City will be maintained in as good order as reasonably possible, but the City will not undertake or assume any responsibility or liability for their condition, use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fire, 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.

38-6-12 LEAKS. Whenever a water leak occurs between the curb box and the water meter, when the meter is located in the building, the City shall give the property owner written notice of same stating that the leak shall be repaired within **five (5) days**. If the property owner does not cause the leak to be repaired within **five (5) days**, the City shall bill the property owner for wasted water at the rate of **three thousand six hundred (3,600) gallons** per day from the date of the notice to repair the leak. The water wasted shall be charged for at the water rates then in effect. The City shall have the option of terminating the water service.

38-6-13 - 38-6-15 RESERVED.

DIVISION II - CROSS-CONNECTION CONTROL

38-6-16 **REQUIREMENTS.** 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 if, in the judgment of the City Superintendent, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent 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**.

38-6-17 **PRIVATE CONNECTION UNLAWFUL.** 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 of the City enters the supply or distribution system of the municipality unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the City Superintendent and the **Illinois Environmental Protection Agency**.

38-6-18 **INVESTIGATION BY SUPERINTENDENT.** It shall be the duty of the City Superintendent to cause surveys and investigations to be made of commercial, industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years**, or as often as the Superintendent shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-6-19 **CROSS-CONNECTION CONTROL INSPECTOR.** 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 of the City for the purpose of verifying the presence or absence of cross-connections, and that the Superintendent or his designated 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 of the City for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee(s) or occupants of any property so served shall furnish to the Superintendent any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Superintendent, be deemed evidence of the presence of improper connections as provided in this Code.

38-6-20 **DISCONTINUANCE OF SERVICE.** The City Superintendent is hereby authorized and directed to discontinue, after reasonable notice to the occupants thereof, the water service to any property wherein any connection in violation of the provisions of this Code 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 Code and until a reconnection fee of **Fifty Dollars (\$50.00)** is paid to the City. Immediate disconnection with verbal notice can be effected when the Superintendent is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the City Superintendent or the **Illinois Environmental Protection Agency**, such action is required to prevent actual or potential contamination or pollution of the public water supply. Neither the public water supply, the Superintendent or agents or assigns shall 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 Code, whether or not said termination was with or without notice.

38-6-21 **CONTAMINATION COSTS.** The consumer responsible for back-siphoned material or contamination through backflow must bear the cost of clean-up of the potable water supply system 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.

38-6-22 **GENERAL POLICY.** The rules and regulations on cross-connection control, which are marked Exhibit "B", attached hereto and made a part hereof, be and the same are hereby approved and adopted and shall be enforced by the City.

38-6-23 - 38-6-30 **RESERVED.**

EXHIBIT "B"

Section 1: Cross-Connection Control -- General Policy

A. **Purpose.** The Purpose of these Rules and Regulations is:

1. 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.
2. 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.
3. 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.

B. **Application.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the City of Breese.

C. **Policy.** 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 of Water or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent of Water 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 installations, maintenance, testing, and repair as required in **Section 5D(4)** below for a period of at least **five (5) years**.

Section 2. Definitions

A. The following definitions shall apply in the interpretation and enforcement of these regulations:

1. "Fixed proper air gap" means the obstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.
2. "Agency" means Illinois Environmental Protection Agency.
3. "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.
4. "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 purveyors's public water supply system; or water from a source such as wells, lakes, or streams, or process fluids; or used water. These water may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.
5. "Backflow" means the flow 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.
6. "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 Public Code and the Illinois Environmental Protection Agency.
7. "Consumer" or "Customer" means the owner, official custodial or person in control of any premises. A building plumbing system is considered to be a customer's water system.
8. "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.

9. "Contamination" means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.
10. "Cross-connection" means any physical condition or arrangement between two otherwise separate piping systems, one of which contains potable water and the other 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.

11. "Double check valve assembly" means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly unit must include tight shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve.
12. "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.
13. "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 IL Adm. Code 890.
14. "Non-potable water" means water not safe for drinking, personal or culinary use as determined by the requirements of 35 IL Adm. Code 604.

15. "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 system, 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, 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.
16. "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.
17. "Potable water" means water which meets the requirements of 35 IL Adm. Code 604 for drinking culinary and domestic purposes.
18. "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.
19. "Process fluid(s)" means any fluid or solution which may be chemically, 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.
- 20. "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 **fifteen (15)** service connections or which regularly serve at least **twenty-five (25) persons** at least **sixty (60) days** per year. A public water supply is either a "community water supply" or a "non-community water supply."
- 21. "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 closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.
- 22. "Service connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.
- 23. "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 written form, and should not be an actual plumbing inspection.

24. "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.
25. "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.
26. "Water purveyor" means the owner or official custodian of a public water system.

Section 3. 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.

Section 4. 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.
 - 1. 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.
 - 2. There shall be no arrangement or connection by which an unsafe substance may enter a supply.

Section 5. Survey and Investigations

A. The consumer's premises shall be open at all reasonable times to the approved cross-connection control devices 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 by the Superintendent of Water, 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 the public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with **225 ILCS 320/3(I)**.

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 fee of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.

4. Testing and Records
 1. Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 2. Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with **415 ILCS 5/4(e)**.
 3. Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
 4. A maintenance log shall be maintained and include:
 - a. date of each test;
 - b. name and approval number of person performing the test;
 - c. test results;
 - d. repairs or servicing required;
 - e. repairs and date completed; and
 - f. servicing performed and date completed.

Section 6. 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 IL Adm. Code 890 and the Agency's regulations 35 IL 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 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 systems containing process fluids or water originating from the public water supply system which are no longer under the sanitary control of the Superintendent of Water.

3. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
4. Premises having a repeated history of cross-connections being established or re-established.

C. An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 IL Adm. Code 890 and the Agency's regulations 35 IL 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 exist:

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 beverage 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.

Section 7. Type of Protection Required

A. The type of protection required under Section 6.1, 6.2 and 6.3 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 device 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 device 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 6.4 of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention device.

C. Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

1. the fire safety system contains antifreeze, fire retardant or other chemicals;
2. water is pumped into the system from another source;
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 connected to the sprinkler system.

Section 8. 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 35 IL Adm. Code 653.802, and only as specified by the Research Foundation for Cross-Connection Control of the University of Southern California or applicable industry specifications. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

Section 9. 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.
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**.

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.

F. Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent of Water.

Section 10. 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 of Water, at least once a year, that the device is operable.

Section 11. Violations

A. The Superintendent of water 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 of Water, 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 of Water, and the required reconnection fee is paid.

DIVISION III - EXTENSION OF MAINS

38-6-31 **MAIN EXTENSION AGREEMENTS.** Upon application for water service in areas not served by a City-owned water main, the City may, with approval of the City Council, authorize the extension of the main at the expense of the applicant.

38-6-32 **EASEMENTS.** Applicants for main extensions shall deliver, without cost to the City, permanent easements or rights-of-way when necessary for the installation and maintenance of the extensions or subsequent additions thereto. The City shall not be obligated to authorize any construction until all requirements of this Chapter have been met.

38-6-33 **SIZE AND TYPE.** The City reserves the right to determine and specify the diameter and type of pipe required to provide the service requested, and subject to the requirements of municipal authorities, its location within or without the limits of a street. The City further reserves the right to install a main larger in diameter than the main required to render the service requested, in which case, the City will pay the difference in cost.

38-6-34 **TITLE.** Title to all main extensions shall be vested in the City and the City shall have the right to further extend any main installed in and to other streets or premises without repayment or refund to any applicant. However, the City reserves the right to consider extensions made at the applicant's expense and without written agreement as to service lines. Upon such lines, the City will set a meter at the beginning of the extension to measure all water used and title to the line beyond the meter will be vested in the customer who shall be responsible for maintenance and replacement, when necessary.

38-6-35 **MAINTENANCE AND REPLACEMENT.** The City, at its own expense, shall maintain and when necessary, replace the City-owned mains used to supply water to its customers, and if adequate service requires the reconstruction or replacement of such mains, the mains shall be reconstructed or replaced by the City at its expense.

EXHIBIT "C"

COMMUNICATIONS ATTACHMENT CODE

ARTICLE I – DEFINITIONS

Section 1.1 For the purposes of this Code, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Paragraph of this Code. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

A. Affiliate: when used in relation to a Licensee, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with the Licensee.

B. Applicable Standards: means all applicable engineering and safety standards governing the installation, maintenance and operation of facilities and the performance of all work in or around electric Utility Facilities and includes the most current versions of National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), and the regulations of the Occupational Safety and Health Administration ("OSHA"), each of which is incorporated by reference in this Code, and/or other reasonable safety and engineering requirements of Utility or other federal, state or local authority with jurisdiction over Utility Facilities.

C. Assigned Space: means space on Utility's Poles that can be used, as defined by the Applicable Standards, for the attachment of Communications Facilities for the provision of Communications Service. See drawings in Appendix E.

D. Attaching Entity: means any public or private entity, including a Licensee, that places an Attachment on Utility's Pole or in Utility's conduit system in order to provide Communications Service.

E. Attachment(s): means Communications Facilities that are utilized to provide Communications Service and that are placed directly on Utility's Poles or Overlashed onto an existing Attachment, or which are placed within Utility's Conduit, but does not include a service drop attached to a single Pole where the Licensee has an existing Attachment on such Pole.

F. Capacity: means the ability of a Pole or Conduit segment to accommodate an additional Attachment based on Applicable Standards, including space and loading considerations.

G. Climbing Space: means that portion of a Pole's surface and surrounding space that is free from encumbrances to enable Utility employees and contractors to safely climb, access and work on Utility Facilities and equipment.

Utilities Appendix "E"

H. Common Space: means space on Utility's Poles that is not used for the placement of wires or cables but which jointly benefits all users of the Poles by supporting the underlying structure and/or providing safety clearance between attaching entities and electric Utility Facilities.

I. Communications Facilities: means wire or cable facilities including but not limited to fiber optic, copper and/or coaxial cables or wires utilized to provide Communications Service including any and all associated equipment. The term "Communications Facilities" also includes equipment utilized to provide wireless Communications Services.

J. Communications Service: means the transmission or receipt of voice, video, data, Internet or other forms of digital or analog signals over Communications Facilities, but does not include any such transmission or receipt by Utility when utilized to provide internal, non-commercial communications related to the operation of the Utility or non-commercial governmental communications.

K. Conduit System: means Utility's Conduit, Innerduct, manholes, vaults, risers, pull-boxes and trenches.

L. Innerduct: means flexible conduit installed inside a larger rigid conduit for the placement of wire or cable.

M. Joint Owned Pole: means any Pole that is owned jointly by Utility and another entity, the Joint Pole Owner.

N. Joint Owned Pole Custodian: means the Joint Pole Owner who has been tasked with primary responsibility for the administration and management of the Pole. In the absence of notice to the contrary from a Joint Pole Owner, Utility shall be deemed to be the Joint Owned Pole Custodian.

O. Joint Pole Owner: means other public utilities or telecommunications carriers which own Poles that are jointly owned by Utility and such other entity.

P. Licensee: means any provider of Communications Services wishing to install and maintain, Communications Facilities and associated communications equipment on the City's Poles or in the City's conduit system to provide Communications Services to the public and the Affiliates, authorized successors and assignees of such provider of Communications Services.

Q. Make-Ready Work: means all work, as reasonably determined by Utility, required to accommodate a Licensee's Communications Facilities and/or to comply with all Applicable Standards. Such work includes, but is not limited to, rearrangement and/or transfer of Utility Facilities or existing Attachments, inspections, engineering work, permitting work, tree trimming where permitted by Franchise (other than tree trimming performed for normal maintenance purposes), pole replacement and construction, or Conduit clearing.

R. Occupancy: means the use or specific reservation of Assigned Space for Attachments on the same Utility Pole or portion of Utility Conduit.

S. Overlash: means to place an additional wire or cable Communications Facility onto an existing Attachment.

T. Pedestals/Vaults/Enclosures: means above- or below-ground housings that are used to enclose a cable/wire splice, power supplies, amplifiers, passive devices and/or provide a service connection point and that shall not be attached to Utility Poles. (See Appendix D – Specifications).

U. Permit: means a written or electronic authorization (See Appendix C) of Utility for a Licensee to make or maintain Attachments to specific Utility Poles or spans of Conduit pursuant to the requirements of this Code.

V. Pole: means a pole owned by Utility used for the distribution of electricity and/or Communications Service that is capable of supporting Attachments for Communications Facilities.

W. Post-Construction Inspection: means the survey inspection required by Utility to determine and verify that the Attachments have been made in accordance with Applicable Standards and the Permit.

X. Pre-Construction Survey: means all work or operations required by Applicable Standards and/or Utility to determine the potential Make-Ready Work necessary to accommodate a Licensee's Communications Facilities on a Pole or within a span of Conduit. Such work includes, but is not limited to, field inspection and administrative processing. The Pre-Construction Inspection shall be coordinated with Utility and include the Licensee's professional engineer.

Y. Tag: means to place distinct markers on wires and cables, coded by color or other means specified by Utility and/or applicable federal, state or local regulations, that will readily identify the type of Attachment (e.g., cable TV, telephone, high-speed broadband data, public safety) and its owner.

Z. Utility and Utility Facilities: means the City of Breese and all personal property and real property owned or controlled by Utility, including Poles and Conduit System.

ARTICLE II – SCOPE OF CODE

Section 2.1. Grant of License. Subject to the provisions of this Code, upon notification by a provider of Communications Services that it seeks to attach communications facilities to Utility's Poles or place communications facilities in Utility's Conduit System, Utility shall grant Licensee a revocable, nonexclusive license authorizing Licensee to install and maintain Permitted Attachments to Utility's Poles, including Joint Owned Poles, and to install its Communications Facilities within Utility's Conduit.

Section 2.2 Licensee and Utility Bound by Code. Licensee and Utility agree to be bound by all provisions of this Code to the extent not superceded by the specific terms of a prior existing valid Joint Ownership Agreement. New Attachments to Jointly

Owned Poles shall be governed by said Joint Ownership Agreement in lieu of this Code to the extent that the specific terms in the Joint Ownership Agreement are inconsistent with the terms of this Code. Licensee's use of Joint Owned Poles shall be controlled by this Code and the Permit(s) issued pursuant to this Code unless and until this Code or any Permit is found to be contrary to a specific term or provision of a prior existing agreement with a Joint Pole Owner that is valid and in force at the time. Licensee shall notify Utility and Utility shall notify Licensee immediately upon discovery or notice from a Joint Pole Owner that such an issue exists. Utility shall use its best efforts to resolve any such issues with the Joint Pole Owner. To the extent known by Utility during the permitting process the Utility shall notify the Licensee of any unique requirements with respect to specific Poles arising out of Joint Ownership.

Section 2.3 **Permit Issuance Conditions.** Utility will issue a Permit(s) to Licensee only when Utility determines, in its sole judgment, exercised reasonably, that (i) it has sufficient Capacity to accommodate the requested Attachment(s), (ii) Licensee meets all requirements set forth in this Code, and (iii) such Permit(s) comply with all Applicable Standards.

Section 2.4 **Reserved Capacity.** Access to Assigned Space on Utility Poles will be made available to Licensee with the understanding that such access is to Utility's reserved Capacity only. On giving Licensee at least **thirty (30) calendar days** prior notice, Utility may reclaim such reserved Capacity anytime during the period following the installation of Licensee's Attachment in which this Code is effective if required for Utility's future electric service use, including the attachment of communications lines for internal Utility operational or governmental communications requirements. Utility shall give Licensee the option to remove its Attachment(s) from the affected Pole(s) or to pay for the cost of any Make-Ready Work needed to expand Capacity so that Licensee can maintain its Attachment on the affected Pole(s). The allocation of the cost of any such Make-Ready Work (including the transfer, rearrangement, or relocation of third-party Attachments) shall be determined in accordance with **Article IX**.

Section 2.5 **No Interest in Property.** No use, however lengthy, of any Utility Facilities, and no payment of any fees or charges required under this Code, shall create or vest in Licensee any easement or other ownership or property right of any nature in any portion of such Facilities. Neither this Code, nor any Permit granted under this Code, shall constitute an assignment of any of Utility's rights to the Utility Facilities. Notwithstanding anything in this Code to the contrary, Licensee shall, at all times, be and remain a licensee only.

Section 2.6 **Licensee's Right to Attach.** Nothing in this Code, other than a Permit issued pursuant to **Article VI**, shall be construed as granting Licensee any right to attach Licensee's Communications Facilities to any specific Pole or within any specific portion of Conduit System.

Section 2.7 **Necessity of Authorizations.** Licensee is obligated to obtain all necessary certification, permitting, and franchising from federal, state and local authorities prior to making any Attachments.

Section 2.8 **Utility's Rights over Poles.** The Licensee and Utility agree that this Code does not in any way limit Utility's right to locate, operate and maintain its Poles or conduit System in the manner that will best enable it to fulfill its service requirements.

Section 2.9 **Expansion of Capacity.** Utility will take reasonable steps to expand Pole/Conduit Capacity when necessary to accommodate Licensee's request for Attachment. Notwithstanding the foregoing sentence, nothing in this Code shall be construed to require Utility to install, retain, extend, or maintain any Pole or portion of Conduit for use when such Pole/Conduit is not needed for Utility's service requirements.

Section 2.10 **Other Agreements.** Except as provided herein, nothing in this Code shall limit, restrict, or prohibit Utility from fulfilling any agreement or arrangement regarding Poles into which Utility has previously entered with others not party to this Code, including Joint Pole Owners.

Section 2.11 **Permitted Uses.** This Code is limited to the uses specifically stated in the Ordinance adopting it and no other use shall be allowed without Utility's express written consent to such use. Nothing in this Code shall be construed to require Utility to allow Licensee to use Utility's Poles or Conduit System after the termination of this Code.

Section 2.12 **Overlapping.** The following provisions will apply to Overlapping:

- A. A Permit shall be obtained for each Overlapping pursuant to **Article VI**. Absent such authorization, Overlapping constitutes an unauthorized Attachment and is subject to the Unauthorized Attachment fee specified in **Appendix A, Item 3**.
- B. If Licensee demonstrates that the Overlapping of Licensee's Attachment(s) is required to accommodate the Communications Facilities of Licensee or Licensee's Affiliate, Permits shall not be withheld by Utility if such Overlapping can be done consistent with **Article II, Section 2.3**. Overlapping performed pursuant to this **Article II, Section 2.12(B)** shall not increase the Annual Attachment Fee paid by Licensee pursuant to **Appendix A, Item 1**. Licensee or Licensee's Affiliate, however, shall be responsible for all Make-Ready Work and other charges associated with the Overlapping but shall not be required to pay a separate Annual Attachment Fee for such Overlapped Attachment.

- C. If Overlashing is required to accommodate facilities of a third party that is not affiliated with Licensee, such third party must become a Licensee under this Code and obtain Permits and must pay a separate Attachment Fee (**Appendix A, Item 1**) as well as the costs of all necessary Make-Ready Work required to accommodate the Overlashing. No such Permits to third parties may be granted by Utility allowing Overlashing of Licensee's Communications Facilities unless Licensee has consented in writing to such Overlashing. Overlashing performed under this **Article II, Section 2.12(C)** shall not increase the fees and charges paid by Licensee pursuant to **Appendix A, Item 1**. Nothing in this Code shall prevent Licensee from seeking a contribution from an Overlashing third party to defray fees and charges paid by Licensee.
- D. Make-Ready Work procedures set forth in **Article VII** shall apply, as necessary, to all Overlashing.

Section 2.13 Enclosures. Licensee shall not place Pedestals, Vaults and/or other Enclosures on or within **four (4) feet** of any Pole or other Utility facilities without Utility's prior written permission. If permission is granted, all such installations shall be per the Specifications and Drawings in **Appendices D and E** of this Code and charges as provided in **Appendix A** shall apply. Such permission shall not be unreasonably withheld.

ARTICLE III – FEES AND CHARGES

Section 3.1 Payment of Fees and Charges. Licensee shall pay to Utility the fees and charges specified in **Appendix A** and shall comply with the terms and conditions specified herein. Unless otherwise specified in an existing Joint Ownership Agreement, Attachments on Joint Owned Utility Poles shall be treated as follows:

For all Attachments on Joint Owned Poles Utility shall invoice Licensee at **one-half (1/2)** standard Attachment fee specified in **Appendix A**. Payment to Utility does not act to relieve Licensee of any fees payable to Joint Pole Owners.

Section 3.2 Payment Period. Irrespective of the date on which an Attachment is made, all fees shall be calculated and payable for the entire calendar year in which a Permit for such Attachment is issued under this Code.

Section 3.3 **Billing.** Utility shall invoice Licensee for the payments annually. Utility will submit to the Licensee an invoice for the annual rental period no later than **May 1**, of each year. The initial annual rental period shall commence upon the effective date of this Code and conclude on **April 30** of the next year, and each subsequent annual rental period shall commence on the following **May 1** and conclude on **April 30** of the subsequent year. The invoice shall set forth the total number of Utility's Poles on which the Licensee was issued and/or holds a Permit(s) for Attachments during such annual rental period, including any previously authorized and valid Permits. Licensee shall pay each such invoice within **thirty (30) calendar days** after Utility's issuance thereof.

Section 3.4 **Refunds.** No fees and charges specified in **Appendix A** shall be refunded on account of any surrender of a Permit granted hereunder. No refund shall be owed if a Pole or portion of Conduit System is abandoned by Utility.

Section 3.5 **Late Charge.** If Utility does not receive payment for any fee or other amount owed within **thirty (30) calendar days** after it becomes due, Licensee, upon receipt of **fifteen (15) calendar days** written notice, shall pay interest to Utility, at the rate of _____ (____%) per month, on the amount due.

Section 3.6 **Payment for Make-Ready Work.** Licensee will be responsible for payment to Utility for all Make-Ready Work required to accommodate Licensee's Communications Facilities except as provided in **Article II, Paragraph L** above regarding Overlashing.

Section 3.7 **Advance Payment.** At the discretion of Utility, Licensee may be required to pay in advance all reasonable costs, including but not limited to administrative, construction, inspections and Make-Ready Work expenses, in connection with the initial installation or rearrangement of Licensee's Communications Facilities pursuant to the procedures set forth in **Articles VI** and **VII** below.

Section 3.8 **Determination of Charges.** Wherever this Code requires Licensee to pay for work done or contracted by Utility, the charge for such work shall include all reasonable material, labor, engineering and administrative costs and applicable overhead costs. Utility shall bill its services based upon actual costs, and such costs will be determined in accordance with Utility's cost accounting systems used for recording capital and expense activities. All such invoices shall include an itemization of dates of work, location of work, labor costs per hour, persons employed and materials used and cost of materials. When calculating labor costs, it will be the greater of the loaded costs of municipal labor or that of the going current "Union scale". If Licensee was required to perform work and fails to perform such work necessitating its completion by Utility, the Utility may either charge an additional **ten percent (10%)** to its costs or assess the penalty specified in **Appendix A**.

Section 3.9 **Work Performed by Utility.** Wherever this Code requires Utility to perform any work, Licensee acknowledges and agrees that Utility, at its sole discretion, may utilize its employees or contractors, or any combination of the two to perform such work.

Section 3.10 **True Up.** Wherever Utility, at its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of the Licensee or Licensee's Affiliate and the actual cost of activity exceeds the advance payment of estimated expenses, Licensee agrees to pay Utility for the difference in cost. To the extent that the actual cost of the activity is less than the estimated cost, Utility shall refund to Licensee the difference in cost.

Section 3.11 **Default for Nonpayment.** Nonpayment of any amount due under this Code beyond **ninety (90) days** shall constitute a default or violation of this Code.

ARTICLE IV – SPECIFICATIONS

Section 4.1 **Installation/Maintenance of Communications Facilities.** When a Permit is issued pursuant to this Code, Licensee's Communications Facilities shall be installed and maintained in accordance with the requirements and specifications of **Appendix D**. All of Licensee's Communications Facilities must comply with all Applicable Standards. Licensee shall be responsible for the installation and maintenance of its Communications Facilities. Licensee shall, at its own expense, make and maintain its Attachments in safe condition and good repair, in accordance with all Applicable Standards.

Section 4.2 **Tagging.** Licensee shall Tag all of its Communications Facilities as specified in **Appendix D** and/or applicable federal, state and local regulations upon installation of such Facilities, prior authorized Attachments of Licensee shall be tagged within **one (1) year** of the execution of this Code. Failure to provide proper tagging will be considered a violation of the Specifications.

Section 4.3 **Interference.** Licensee shall not allow its Communications Facilities to impair the ability of Utility, Joint Pole Owner, or any third party to use Utility's Poles or Conduit System, nor shall Licensee allow its Communications Facilities to interfere with the operation of any Utility Facilities.

Section 4.4 **Protective Equipment.** Licensee, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee shall at its own expense install protective devices

designed to handle the voltage and current impressed on its Communications Facilities in the event of a contact with the supply conductor. Except as provided in **Article XVI, Section 16.1**, Utility shall not be liable for any actual or consequential damages to Licensee's Communications Facilities or Licensee's customers' facilities.

Section 4.5 **Violation of Specifications.** If Licensee's Communications Facilities, or any part thereof, are installed, used, or maintained in violation of this Code, and Licensee has not corrected the violation(s) within **thirty (30) calendar days** from receipt of written notice of the violation(s) from Utility, Utility at its option, may correct said conditions. Utility will attempt to notify Licensee in writing prior to performing such work whenever practicable. When Utility believes, however, that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of Utility's service obligations, or pose an immediate threat to the physical integrity of Utility Facilities, Utility may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, Utility will advise Licensee of the work performed or the action taken. Licensee shall be responsible for all costs incurred by the Utility in taking action pursuant to this subsection.

Section 4.6 **Restoration of Utility Service.** Utility's service restoration requirements shall take precedence over any and all work operations of Licensee on Utility's Poles or within Utility's Conduit System.

Section 4.7 **Effect of Failure to Exercise Access Rights.** If Licensee does not exercise any access right granted pursuant to this Code and/or applicable Permit(s) within **ninety (90) calendar days** of the effective date of such right and any extension thereof, Utility may use the space scheduled for Licensee's Attachment(s), for its own needs, Joint Pole Owner's needs, or the needs of other Attaching Entities. In such instances, Utility shall endeavor to make other space available to Licensee, upon written application per **Article VI**, as soon as reasonably possible and subject to all requirements of this Code, including the Make-Ready Work provisions.

Section 4.8 To the extent Licensee furnishes cable television service it shall maintain test equipment to identify signal interference to its customers, and shall not identify the Utility as the source of such interference absent a test report verifying the source.

ARTICLE V – PRIVATE AND REGULATORY COMPLIANCE

Section 5.1 **Necessary Authorizations.** Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate and/or maintain its Communications Facilities on public and/or private property before it occupies any portion of Utility's Poles, including Joint Pole Owners. Utility retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this **Article V** include, but are not limited to, its obligation to obtain all necessary approvals to occupy public/private rights-of-way and to pay all costs associated therewith. Licensee shall defend, indemnify and reimburse Utility for all loss and expense, including reasonable attorneys' fees, that Utility may incur as a result of claims by governmental bodies, owners of private property, or other persons, that Licensee does not have sufficient rights or authority to attach Licensee's Communications Facilities on Utility's Poles or within its Conduit System.

Section 5.2 **Lawful Purpose and Use.** Licensee's Communications Facilities must at all times serve a lawful purpose, and the use of such Facilities must comply with all applicable federal, state and local laws.

Section 5.3 **Forfeiture of Utility's Rights.** No Permit granted under this Code shall extend to any Pole or within any Conduit on/in which the Attachment of Licensee's Communications Facilities would result in a forfeiture of Utility's rights. Any Permit, which on its face would cover Attachments that would result in forfeiture of Utility's rights, is invalid. Further, if any of Licensee's existing Communications Facilities, whether installed pursuant to a valid Permit or not, would cause such forfeiture, Licensee shall promptly remove its Facilities upon receipt of written notice from Utility. Utility will perform such removal at Licensee's expense not sooner than the expiration of **thirty (30) calendar days** from Utility's issuance of the written notice.

Section 5.4 **Effect of Consent to Construction/Maintenance.** Consent by Utility to the construction or maintenance of any Attachments by Licensee shall not be deemed consent, authorization or an acknowledgement that Licensee has the authority to construct or maintain any other such Attachments from all appropriate parties or agencies.

ARTICLE VI – PERMIT APPLICATION PROCEDURES

Section 6.1 **Permit Required.** No provider of Communications Services, whether or not it is a Licensee under this Code, shall install any Attachments on any Pole or within any Utility Conduit or on a Joint Owned Pole for which the Utility is the Joint Owned Pole Custodian without first applying for and obtaining a Permit pursuant to the applicable requirements of **Appendix B**. Unless otherwise notified, Utility shall be presumed by Licensee to be the Joint Owned Pole Custodian for all Joint Owned Poles. Pre-existing authorized Attachment(s) of Licensee as of the effective date of this Code shall be grandfathered with respect to Permitting, but shall be subject to the Attachment Fees. Licensee shall provide Utility with a list of all such pre-existing Attachments within **six (6) months** of the effective date of this Code. Attachments to or rights to occupy Utility Facilities not covered by this Code must be separately negotiated.

Section 6.2 **Permits for Overlashing.** As set out in **Article II, Section 2.12**, Permits are required for any Overlashing allowed under this Code and Licensee, Licensee's Affiliate or third party, as applicable, shall pay any necessary Make-Ready Work costs to accommodate such Overlashing.

Section 6.3 **Professional Certification.** Unless otherwise waived in writing by the Utility, as part of the Permit application process, a qualified and experienced professional engineer must participate in the Pre-Construction Inspection, conduct the Post-Construction Inspection and certify that Licensee's Communications Facilities can be and were installed on the identified Poles or within specified portions of Conduit in compliance with the standards in **Article IV, Section 4.1** and in accordance with the Permit. The professional engineer's qualifications must include experience performing such work, or substantially similar work, on electric transmission or distribution systems. Utility, at its discretion, may waive the requirements of this **Article VI, Section 6.3**, with respect to service drops.

Section 6.4 **Utility Review of Permit Application.** Upon receipt of a properly executed Application for Permit (**Appendix C**), including the Pre-Construction Inspection, certified per **Article VI, Paragraph C** above, Utility will review the Permit Application as promptly as possible, and discuss any issues with Licensee, including engineering or Make-Ready Work requirements associated with the Permit Application. Utility acceptance of the submitted design documents does not relieve the certifying professional engineer and Licensee of full responsibility for any errors and/or omissions in the engineering analysis.

Section 6.5 **Performance of Make-Ready Work.** If Make-Ready Work is required to accommodate Licensee's Attachments, Utility or its contractors shall perform such work pursuant to **Article VII**.

Section 6.6 **Permit as Authorization to Attach.** After receipt of payment for any necessary Make-Ready Work, Utility will sign and return the Permit Application, which shall serve as authorization for Licensee to make its Attachment(s).

ARTICLE VII – MAKE-READY WORK/INSTALLATION

Section 7.1 **Estimate for Make-Ready Work.** In the event Utility determines that it can accommodate Licensee's request for Attachment(s), including Overlapping of an existing Attachment, it will, upon request, advise Licensee of any estimated Make-Ready Work charges necessary to accommodate the Attachment.

Section 7.2 **Payment of Make-Ready Work.** Utility, at its discretion, may require payment in advance for Make-Ready Work based upon the estimated cost of such work. Upon completion Licensee shall pay Utility's actual cost of Make-Ready Work. The costs of which shall be itemized as per **Article III, Section 3.8**.

Section 7.3 **Who May Perform Make-Ready Work.** Make-Ready Work shall be performed only by Utility and/or a contractor authorized by Utility to perform such work. If Utility cannot perform the Make-Ready Work to accommodate Licensee's Communications Facilities within **ninety (90) calendar days** of Licensee's request for Attachments, Licensee may seek permission from Utility for Licensee to employ a qualified contractor to perform such work.

Section 7.4 **Scheduling of Make-Ready Work.** In performing all Make-Ready Work to accommodate Licensee's Communications Facilities, Utility will endeavor to include such work in its normal work schedule. In the event Licensee requests that the Make-Ready Work be performed on a priority basis or outside of Utility's normal work hours, Licensee agrees to pay any resulting increased costs. Nothing herein shall be construed to require performance of Licensee's work before other scheduled work or Utility service restoration.

Section 7.5 **Written Approval of Installation Plans Required.** Before commencing any installation of its Communications Facilities within Utility's Conduits, or on Conduits, Utility's Poles, or Joint Owned Poles where the Utility is the Custodian, including Overlapping of existing Pole Attachments, Licensee must obtain Utility's written approval of Licensee's detailed plans for installation, which shall accompany the

Permit application, including the name of the party (Licensee and/or contractor) performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of **Article XVIII**.

Section 7.6 **Licensee's Installation/Removal/Maintenance Work.**

- A. All of Licensee's installation, removal and maintenance work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of Utility's Poles, Conduits or other Facilities or any Joint Pole Owner's or other Attaching Entity's facilities or equipment attached thereto.
- B. All of Licensee's installation, removal and maintenance work performed on Utility's Poles or within its Conduit or in the vicinity of other Utility Facilities, either by its employees or contractors, shall be in compliance with all applicable regulations specified in **Article IV, Paragraph A**. Licensee shall assure that any person installing, maintaining, or removing its Communications Facilities is fully qualified and familiar with all Applicable Standards, the provisions of **Article XVII**, and the Minimum Design Specifications contained in **Appendix D**.

ARTICLE VIII – TRANSFERS

Section 8.1 **Required Transfers of Licensee's Communications Facilities.**

If Utility reasonably determines that a transfer of Licensee's Communications Facilities is necessary, Licensee agrees to allow such transfer. In such instances, Utility will, at its option, either perform the transfer using its personnel, and/or contractors and/or require Licensee to perform such transfer at its own expense within **sixty (60) calendar days** after receiving notice from Utility. If Licensee fails to transfer its Facilities within **sixty (60) calendar days** after receiving such notice from Utility, Utility shall have the right to transfer Licensee's Facilities using its personnel and/or contractors at Licensee's expense plus the penalty specified in **Appendix A**. Utility shall not be liable for damage to Licensee's Facilities except to the extent provided in **Article XVI, Section 16.1**. The written advance notification requirement of this Paragraph shall not apply to emergency situations, in which case Utility shall provide such advance notice as is practical given the urgency of the particular situation. Utility shall then provide written notice of any such actions taken within **ten (10) days** of the occurrence.

Section 8.2 **Billing for Transfers Performed by Utility.** If Utility performs the transfer(s), Utility will bill Licensee for actual costs per **Article III, Section 3.9**. Licensee shall reimburse Utility within **thirty (30) calendar days** of the receipt of the invoice.

ARTICLE IX – POLE MODIFICATIONS AND/OR REPLACEMENTS

Section 9.1 **Licensee's Action Requiring Modification/Replacement.** In the event that any Pole to which Licensee desires to make Attachment(s) is unable to support or accommodate the additional facilities in accordance with all Applicable Specifications, Utility will notify Licensee of the necessary Make-Ready Work, and associated costs, to provide an adequate Pole, including but not limited to replacement of the Pole and rearrangement or transfer of Utility's Facilities. Licensee shall be responsible for separately entering into an agreement with Joint Pole Owners or other Attaching Entities concerning the allocation of costs for the relocation or rearrangement of such entities' existing Attachments. If Licensee elects to go forward with the necessary changes, Licensee shall pay to Utility the actual cost of the Make-Ready Work, performed by Utility, per **Article III, Section 3.9**. Utility, at its discretion, may require advance payment.

Section 9.2 **Treatment of Multiple Requests for Same Pole.** If Utility receives Permit Applications for the same Pole from **two (2)** or more prospective licensees within **sixty (60) calendar days** of the initial request, and accommodating their respective requests would require modification or replacement of the Pole, Utility will allocate among such licensees the applicable costs associated with such modifications or replacement. Such allocation applies only to those Attachments involving cable/wire and not Risers and/or Other Equipment.

Section 9.3 **Guying.** The use of guying to accommodate Licensee's Attachments shall be provided by and at the expense of Licensee and to the satisfaction of Utility as specific in **Appendix D**. Licensee shall not attach its guy wires to Utility's anchors without prior written permission of the Utility. If permission is granted, charges may apply.

Section 9.4 **Allocation of Costs.** The costs for any rearrangement or transfer of Licensee's Communications Facilities or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of Utility's cables or wires) shall be allocated to Utility and/or Licensee and/or other Attaching Entity, including Joint Pole Owners, on the following basis:

- A. If Utility intends to modify or replace a Pole solely for its own requirements, it shall be responsible for the costs related to the modification/replacement of the Pole. Licensee, however, shall be responsible for all costs associated with the rearrangement or transfer of Licensee's Communications Facilities. Prior to making any such modification or replacement Utility shall provide Licensee written notification of its intent in order to allow Licensee a reasonable opportunity to elect to modify or add to its existing Attachment. Should Licensee so elect, it must seek Utility's written permission per this Code. The notification requirement of this **Section 9.4(A)** shall not apply to routine maintenance or emergency situations. If Licensee elects to add to or modify its Communications Facilities, Licensee shall bear the total incremental costs incurred by Utility in making the space on the Poles accessible to Licensee.
- B. If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity, including Joint Pole Owner, other than Utility or Licensee, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement, as well as the costs or rearranging or transferring Licensee's Communications Facilities. Licensee shall cooperate with such third party Attaching Entity to determine the costs of moving Licensee's facilities.
- C. If the Pole must be modified or replaced for other reasons unrelated to the use of the Pole by Attaching Entities (e.g., storm, accident, deterioration), Utility shall pay the costs of such modification or replacement; provided however, that Licensee shall be responsible for the costs of rearranging or transferring its Communications Facilities.

Section 9.5 No provision of this Code shall be construed to require Utility to relocate its Attachments or modify/replace its Poles for the benefit of Licensee, provided, however, any denial by Utility for modification of the pole is based on nondiscriminatory standards of general applicability.

ARTICLE X – ABANDONMENT OR REMOVAL OF UTILITY FACILITIES

Section 10.1 **Notice of Abandonment or Removal of Utility Facilities.** If Utility desires at any time to abandon, remove or underground any Utility Facilities to which Licensee's Communications Facilities are attached, it shall give Licensee notice in

writing to that effect at least **sixty (60) calendar days** prior to the date on which it intends to abandon or remove such Utility's Facilities. Notice may be limited to **thirty (30) calendar days** if Utility is required to remove or abandon its Utility Facilities as the result of the action of a third party and the greater notice period is not practical. Such notice shall indicate whether Utility is offering Licensee an option to purchase the Pole(s). If, following the expiration of said period, Licensee has not yet removed and/or transferred all of its Communications Facilities therefrom and has not entered into an agreement to purchase the Utility's Facilities pursuant to **Section 10.2** of this **Article X**, Utility shall have the right, subject to any applicable laws and regulations, to have Licensee's Communications Facilities removed and/or transferred from the Pole at Licensee's expense. Utility shall give Licensee prior written notice of any such removal or transfer of Licensee's Facilities.

Section 10.2 **Option to Purchase Abandoned Poles.** Should Utility desire to abandon any Pole, Utility, in its sole discretion, may grant Licensee the option of purchasing such Pole at a rate negotiated with Utility. Licensee must notify Utility in writing within **thirty (30) calendar days** of the date of Utility's notice of abandonment that Licensee desires to purchase the abandoned Pole. Thereafter, Licensee must also secure and deliver proof of all necessary governmental approvals and easements allowing Licensee to independently own and access the Pole within **forty-five (45) calendar days**. Should Licensee fail to secure the necessary governmental approvals, or should Utility and Licensee fail to enter into an agreement for Licensee to purchase the Pole prior to the end of the **forty-five (45) calendar days**, Licensee must remove its Attachments as required under **Section 10.1** of this **Article X** Utility is under no obligation to sell Licensee Poles that it intends to remove or abandon.

Section 10.3 If Utility moves its aerial system underground and Utility has available conduit to accommodate Licensee's above ground Attachments, Licensee shall relocate its Communications Facilities into such conduit within **sixty (60) calendar days** of receipt of notice from Utility or find other means to accommodate its Facilities. Failure to remove aerial Facilities upon Utilities conversion to underground shall subject Licensee to the penalty provisions of **Appendix A**.

ARTICLE XI – REMOVAL OF LICENSEE'S FACILITIES

Section 11.1 **Removal on Expiration/Termination.** At the termination of the Permits issued to Licensee under this Code or individual Permit(s), Licensee shall remove its Communications Facilities from the affected Poles or portions of Conduit

System at its own expense. If Licensee fails to remove such facilities within **sixty (60) calendar days** of expiration or termination or some greater period as allowed by Utility, Utility shall have the right to have such facilities removed at Licensee's expense.

ARTICLE XII – TERMINATION OF PERMIT

Section 12.1 **Automatic Termination of Permit.** Any Permit issued pursuant to this Code shall automatically terminate when Licensee ceases to have authority to construct and operate its Communications Facilities on public or private property at the location of the particular Pole(s)/portion of Conduit covered by the Permit.

Section 12.2 **Surrender of Permit.** Licensee may at any time surrender any Permit for Attachment and remove its Communications Facilities from the affected Pole(s) or segment of Conduit, provided, however, that before commencing any such removal Licensee must obtain Utility's written approval of Licensee's plans for removal, including the name of the party performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of **Article XVIII**. No refund of any fees or costs will be made upon removal. If Licensee surrenders such Permit pursuant to the provisions of this Article, but fails to remove its Attachments from Utility's Facilities within **thirty (30) calendar days** thereafter, Utility shall have the right to remove Licensee's Attachments at Licensee's expense.

ARTICLE XIII – INSPECTION OF LICENSEE'S FACILITIES

Section 13.1 **Inspections.** After the Post-Construction Inspection, Utility may conduct an inventory and inspection of Attachments. Licensee shall correct all Attachments that are not found to be in compliance with Applicable Standards within **thirty (30) calendar days** of notification. If it is found that Licensee has made an Attachment without a Permit the Licensee shall pay a fee as specified in **Appendix A, Item 3** in addition to applicable Permit and Make-Ready charges. If it is found that **five percent (5%)** or more of Licensee's Attachments are either in noncompliance or not permitted shall pay the costs of the inspection.

Section 13.2 **Notice.** Utility will give Licensee reasonable advance written notice of such inspections, except in those instances where safety considerations justify the need for such inspection without the delay of waiting until written notice has been received.

Section 13.3 **No Liability.** The making of any inspections under this **Article XIII**, or the failure to do so, shall not operate to impose upon Utility any liability of any kind whatsoever or relieve Licensee of any responsibility, obligations or liability whether assumed under this Code or otherwise existing.

Section 13.4 **Attachment Records.** Notwithstanding the above inspection provisions, Licensee is obligated to furnish Utility on an annual basis an up to date map depicting the locations of its attachments in an electronic format specified by the Utility.

ARTICLE XIV – UNAUTHORIZED OCCUPANCY OR ACCESS

Section 14.1 **Penalty Fee.** If any of Licensee's Attachments are found occupying any Pole or segment of Conduit for which no Permit has been issued, Utility, without prejudice to its other rights or remedies under this Code, may assess an Unauthorized Access Penalty Fee as specified in **Appendix A, Item 2**. In the event Licensee fails to pay such Fee within **thirty (30) calendar days** of receiving notification thereof, Utility has the right to remove such Communications Facilities at Licensee's expense.

Section 14.2 **No Ratification of Unlicensed Use.** No act or failure to act by Utility with regard to said unlicensed use shall be deemed as ratification of the unlicensed use and if any Permit should be subsequently issued, such Permit shall not operate retroactively or constitute a waiver by Utility of any of its rights or privileges under this Code or otherwise; provided, however, that Licensee shall be subject to all liabilities, obligations and responsibilities of this Code in regards to said unauthorized use from its inception.

ARTICLE XV – ADVANCE PAYMENT

Section 15.1 Utility holds the right to require, at its sole discretion, for Licensee to furnish Advance Payment for each Attachment in the amount of the first Annual Attachment Fee as specified in **Appendix A, Item 1** plus any estimated Make-Ready Work expenses.

ARTICLE XVI – LIABILITY AND INDEMNIFICATION

Section 16.1 **Liability.** Utility reserves to itself the right to maintain and operate its Poles and Conduit System in such manner as will best enable it to fulfill its service requirements. Licensee agrees to use Utility's Poles and Conduit at Licensee's sole risk. Notwithstanding the foregoing, Utility shall exercise reasonable precaution to avoid damaging Licensee's Communications Facilities and shall report to Licensee the occurrence of any such damage caused by its employees, agents or contractors. Subject to **Article XVI, Section 16.5**, Utility agrees to reimburse Licensee for all reasonable costs incurred by Licensee for the physical repair of such facilities damaged by the gross negligence or willful misconduct of Utility, provided, however, that the aggregate liability of Utility, to Licensee, in any fiscal year, for any other fines, penalties, claims or damages stemming from interruption of Licensee's service or interference with the operation of Licensee's Communications Facilities (including special, indirect, punitive, or consequential damages) shall not exceed the amount of the total Annual Attachment Fees paid by Licensee to Utility for that year as calculated based on the number of Attachments under Permit at the time of the damage per **Appendix A, Item 1**.

Section 16.2 **Indemnification.** Licensee, and any agent, contractor or subcontractor of Licensee, shall defend, indemnify and hold harmless Utility and its officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors, against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by Utility under any Workers' Compensation Laws or under any plan for employees' disability and death benefits), and expenses (including reasonable attorney fees of Utility and all other costs and expenses of litigation) ("Covered Claims") arising in any way, including any act, omission, failure, negligence or willful misconduct, in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal or operation by Licensee, or by Licensee's officers, directors, employees, agents, and contractors, of Licensee's Communications Facilities, except to the extent of Utility's negligence or willful misconduct giving rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

- A. Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents;
- B. Cost of work performed by Utility that was necessitated by Licensee's failure, or the failure of Licensee's officers, directors, employees, agents, or contractors, to install, maintain, present, use, transfer or remove Licensee's Communications Facilities in

- accordance with the requirements and specifications of this Code, or from any other work this Code authorizes Utility to perform on Licensee's behalf;
- C. Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by Licensee, or Licensee's officers, directors, employees, agents, and contractors, pursuant to this Code;
 - D. Liabilities incurred as a result of Licensee's violation, or a violation by Licensee's officers, directors, employees, agents, and contractors, of any law, rule, or regulation of the United States, State of Illinois or any other governmental entity or administrative agency.

Section 16.3

Procedure for Indemnification.

- A. Utility shall give notice promptly to the Licensee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit or proceeding filed by a third party against Utility, the notice shall be given to Licensee by Utility no later than **ten (10) calendar days** after written notice of the action, suit or proceeding was received by Utility.
- B. Failure to timely give the required notice will not relieve the Licensee from its obligation to indemnify the Utility unless the Licensee is materially prejudiced by such failure.
- C. The Licensee will have the right at any time, by notice to the Utility, to participate in or assume control of the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to the Utility. The Utility agrees to cooperate fully with the Licensee. If the Licensee so assumes control of the defense of any third-party claim, the Utility shall have the right to participate in the defense at its own expense. If the Licensee does not so assume control or otherwise participate in the defense of any third-party claim, it shall be bound by the results obtained by the Utility with respect to the claim.
- D. If the Licensee assumes the defense of a third-party claim as described above, then in no event will the Utility admit any liability with respect to, or settle, compromise or discharge, any third party claim without the Licensee's prior written consent, and the Utility will agree to any settlement, compromise or discharge of any third-party claim which the Licensee may recommend which releases the Utility completely from such claim.

Section 16.4 **Environmental Hazards.** Licensee represents and warrants that its use of Utility's Poles will not generate any hazardous substances, that it will not store or dispose on or about Utility's Poles/Conduit or transport to Utility's Poles/Conduit any hazardous substances and that Licensee's Communications Facilities will not constitute or contain and will not generate any hazardous substance in violation of federal, state or local law now or hereafter in effect including any amendments. "Hazardous substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state, or local laws, regulations or rules now or hereafter in effect including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration or other disaster, its Communications Facilities would not release such hazardous wastes or substances. Licensee, and its agents, contractors and subcontractors, shall defend, indemnify and hold harmless Utility and its respective officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, expenses (including reasonable attorney fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage or discovery of any such hazardous wastes or hazardous substances on, under or adjacent to Utility's Poles/Conduit attributable to Licensee's use of Utility's Poles or Conduit.

Should Utility's Poles be declared hazardous waste, the Utility, Licensee and all Attaching Entities, including Joint pole Owners, shall share proportionately in the cost of disposal of said Poles based on their individual percentage use of same. For Attaching Entities such percentage shall be derived from the sum of Assigned Space occupied by each Attaching Entity plus its share of the Common Space. For the Utility such percentage shall be equal to the space above the NESC 40 inch safety space plus its share of the Common Space. Provided, however, if the source or presence of the hazardous substance is solely attributable to particular parties, such costs shall be borne solely by said parties.

Section 16.5 **Municipal Liability Limits.** No provision of this Code is intended, or shall be construed, to be a waiver for any purpose by Utility of any applicable State limits on municipal liability. No indemnification provision contained in this Code under which Licensee indemnifies Utility shall be construed in any way to limit any other indemnification provision contained in this Code.

Section 16.6 **Attorney's Fees.** If Utility brings a successful action in a court of competent jurisdiction to enforce this Code Licensee shall pay Utility's reasonable attorney fees.

ARTICLE XVII – DUTIES, RESPONSIBILITIES, AND EXCULPATION

Section 17.1 **Duty to Inspect.** Licensee acknowledges and agrees that Utility does not warrant the condition or safety of Utility's Facilities, or the premises surrounding the Facilities, and Licensee further acknowledges and agrees that it has an obligation to inspect Utility's Poles or Conduit and/or premises surrounding the Poles or Conduit, prior to commencing any work on Utility's Poles or Conduit or entering the premises surrounding the Poles or Conduit.

Section 17.2 **Knowledge of Work Conditions.** By executing this Code, Licensee warrants that it has acquainted, or willfully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Code and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.

Section 17.3 **Disclaimer.** Utility makes no express or implied warranties with regard to Utility's Poles or Conduit System, all of which are hereby disclaimed, and Utility makes no other express or implied warranties, except to the extent expressly and unambiguously set forth in this Code. Utility expressly disclaims any implied warranties of merchantability or fitness for a particular purpose.

Section 17.4 **Duty to Competent Supervision and Performance.** The Licensee and Utility further understand and agree that in the performance of work under this Code, Licensee and its agents, servants, employees, contractors and subcontractors will work near electrically energized lines, transformers, or other Utility Facilities, and it is the intention that energy therein will not be interrupted during the continuance of this Code, except in an emergency endangering life, grave personal injury, or property. Licensee shall ensure that its employees, servants, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Utility, and the general public, from harm or injury while performing work permitted pursuant to this Code. In addition, Licensee shall furnish its employees, servants, agents, contractors and subcontractors competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Licensee agrees that in emergency situations in which it may be necessary to de-energize any part of Utility's equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

Section 17.5 **Requests to De-energize.** In the event Utility de-energizes any equipment or line at Licensee's request and for its benefit and convenience in performing a particular segment of any work, Licensee shall reimburse Utility in full for

all costs and expenses incurred, in accordance with **Article III, Section 3.8**, in order to comply with Licensee's request. Before Utility de-energizes any equipment or line, it shall provide, upon request, an estimate of all costs and expenses to be incurred in accommodating Licensee's request.

Section 17.6 **Interruption of Service.** In the event that Licensee shall cause an interruption of service by damaging or interfering with any equipment Utility, Licensee at its expense shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify Utility immediately.

Section 17.7 **Duty to Inform.** Licensee further warrants that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on Utility's Poles or within Utility Conduit by Licensee's employees, servants, agents, contractors or subcontractors, and accepts as its duty and sole responsibility to notify and inform Licensee's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same.

ARTICLE XVIII – INSURANCE

Section 18.1 **Policies Required.** At all times during the term of this Code, Licensee shall keep in force and effect all insurance policies as described below:

- A. Worker's Compensation and Employers' Liability Insurance. Statutory worker's compensation benefits and employers' liability insurance with a limit of liability no less than that required by Illinois law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of Utility. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.
- B. Commercial General Liability Insurance. Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with Limits of liability not less than **Two Million Dollars (\$2,000,000)** general aggregate, **Two Million Dollars (\$2,000,000)** products/completed operations aggregate, **Two Million Dollars (\$2,000,000)** personal injury, **Two Million Dollars (\$2,000,000)** each occurrence.

- C. Automobile Liability Insurance. Business automobile policy covering all owned, hired or non-owned private passenger autos and commercial vehicles. Limits of liability not less than **One Million Dollars (\$1,000,000)** each occurrence, **One Million Dollars (\$1,000,000)** aggregate.
- D. Umbrella Liability Insurance. Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than **Four Million Dollars (\$4,000,000)** each occurrence, **Four Million Dollars (\$4,000,000)** aggregate.
- E. Property Insurance. Each party will be responsible for maintaining property insurance on its own facilities, buildings and other improvements, including all equipment, fixtures, and utility structures, fencing, or support systems that may be placed on, within, or around Utility Facilities to fully protect against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance or self-insure such exposures.

Section 18.2 **Qualification; Priority; Contractors' Coverage.** The insurer must be authorized to do business under the laws of the State of Illinois and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry, in full force and effect, worker's compensation and employer's liability, comprehensive general liability and automobile liability insurance coverages of the type that Licensee is required to obtain under this Article with the same limits.

Section 18.3 **Certificate of Insurance; Other Requirements.** Prior to the execution of this Code and prior to each insurance policy expiration date during the term of this Code, Licensee will furnish Utility with a Certificate of Insurance and, upon request, certified copies of the required insurance policies. The Certificate shall reference this Code and worker's compensation and property insurance waivers of subrogation required by this Code. Utility shall be given **thirty (30) calendar days** advance notice of cancellation or nonrenewal of insurance during the term of this Code. Utility, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, except worker's compensation, which shall be so stated on the Certificate of Insurance. All policies, other than worker's compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed **One Hundred Thousand Dollars (\$100,000)**, or such greater amount as expressly allowed in writing by Utility. Licensee shall defend, indemnify and hold harmless Utility and Additional Insureds from

and against payment of any deductible and payment of any premium on any policy required under this **Article XVIII**. Licensee shall obtain Certificates of Insurance from its agents, contractors and subcontractors and provide a copy of such Certificates to Utility upon request.

Section 18.4 **Limits.** The limits of liability set out in this **Article XVIII** may be increased or decreased by mutual consent of the Licensee and Utility, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal or other governmental compensation plans, or laws which would materially increase or decrease Licensee's exposure to risk.

Section 18.5 **Prohibited Exclusions.** No policies of insurance required to be obtained by Licensee or its contractors or subcontractors shall contain provisions (1) that exclude coverage of liability assumed by this Code with Utility except as to infringement of patents or copyrights or for libel and slander in program material, (2) that exclude coverage of liability arising from excavating, collapse, or underground work, (3) that exclude coverage for injuries to Utility's employees or agents, or (4) that exclude coverage of liability for injuries or damages caused by Licensee's contractors or contractor's employees, servants or agents. This list of prohibited provisions shall not be interpreted as exclusive.

Section 18.6 **Deductible/Self-Insurance Retention Amounts.** Licensee shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

ARTICLE XIX – AUTHORIZATOIN NOT EXCLUSIVE

Section 19.1 Utility shall have the right to grant, renew and extend rights and privileges to others not party to this Code, including Joint Pole Owners, by contract or otherwise, to use Utility Facilities covered by this Code. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Code.

ARTICLE XX – ASSIGNMENT

Section 20.1 **Limitations on Assignment.** Licensee shall not assign its rights or obligations under this Code, nor any part of such rights or obligations, without the prior written consent of Utility, which consent shall not be unreasonably withheld.

Notwithstanding the foregoing, Licensee may assign or transfer its interest in this Code to Licensee's Affiliate without Utility's consent, provided that Utility is given prior written notice of such transfer.

Section 20.2 **Obligations of Assignee/Transferee and Licensee.** No assignment or transfer under this **Article XX** shall be allowed until the assignee or transferee becomes a signatory to this Code and assumes all obligations of Licensee arising under this Code. Licensee shall furnish Utility with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, Licensee shall remain fully liable under this Code and shall not be released from performing any of the terms, covenants or conditions of this Code without the express written consent to the release of Licensee by Utility.

Section 20.3 **Sub-Licensing.** Without Utility's prior written consent, Licensee shall not sub-license to a non-affiliated third party, including but not limited to allowing third parties to place Attachments on Utility's Facilities, including Overlapping, or to place Attachments for the benefit of such third parties on Utility's Poles or within Utility's Conduit. Any such action shall constitute a material breach of this Code. The use of Licensee's Communications Facilities by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment or Overlapping is not subject to the provisions of this **Article XX, Section 20.3**.

ARTICLE XXI – FAILURE TO ENFORCE

Section 21.1 Failure of Utility or Licensee to take action to enforce compliance with any of the terms or conditions of this Code or to give notice or declare this Code or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment of any term or condition of this Code, but the same shall be and remain at all times in full force and effect until terminated, in accordance with the Code.

ARTICLE XXII – TERMINATION OF PERMITS

Section 22.1 Notwithstanding Utility's rights under **Article XII**, Utility shall have the right, pursuant to the procedure set out in **Article XXII, Section 22.2**, to terminate any and all Permits issued hereunder, whenever Licensee is in default or violation of any term or condition of this Code, including but not limited to the following circumstances:

Utilities Appendix "E"

- A. Construction, operation or maintenance of Licensee's Communications Facilities in violation of law or in aid of any unlawful act or undertaking; or
- B. Construction, operation or maintenance of Licensee's Communications Facilities after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority or violation of any other agreement with the Utility; or
- C. Construction, operation or maintenance of Licensee's Communications Facilities without the insurance coverage required under **Article XVIII**.

Section 22.2 Utility will notify Licensee in writing within **fifteen (15) calendar days**, or as soon as reasonably practicable, of any condition(s) applicable to **Section 22.1** above. Licensee shall take immediate corrective action to eliminate any such condition(s) within **fifteen (15) calendar days**, or such longer period mutually agreed to by the Licensee and Utility, and shall confirm in writing to Utility that the cited condition(s) has (have) ceased or been corrected. If Licensee fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, Utility may immediately terminate this Code or any Permit(s). In the event of termination of this Code or any of Licensee's rights, privileges or authorizations hereunder, Utility may seek removal of Licensee's Communications Facilities pursuant to the terms of **Article XI**, provided, that Licensee shall be liable for and pay all fees and charges pursuant to terms of this Code to Utility until Licensee's Communications Facilities are actually removed.

ARTICLE XXIII – NOTICES

Section 23.1 Wherever in this Code notice is required to be given by either party to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail, return receipt requested, with postage prepaid and, except where specifically provided for elsewhere, properly addressed as follows:

If to Utility, at:

If to Licensee, at the address identified when the provider of Communications Services becomes a Licensee under this Code

or to such other address as either party, from time to time, may give the other part in writing.

Section 23.2 Licensee shall maintain a staffed 24-hour emergency telephone number, not available to the general public, where Utility can contact Licensee to report damage to Licensee's facilities or other situations requiring immediate communications between the Licensee and Utility. Such contact person shall be qualified and able to respond to Utility's concerns and requests. Failure to maintain an emergency contact shall subject the Licensee to a penalty of **One Hundred Dollars (\$100.00)** per incident, and shall eliminate Utility's liability to Licensee for any actions that Utility deems reasonably necessary given the specific circumstances.

ARTICLE XXIV – PREVIOUS AGREEMENTS

Section 24.1 This Code supersedes all previous agreements, whether written or oral, between Utility and Licensee for placement and maintenance of Licensee's Communications Facilities on Utility's Poles or within the Utility's Conduit System within the geographical service area covered by this Code; and there are no other provisions, terms or conditions to this Code except as expressed herein.

ARTICLE XXV – SEVERABILITY

Section 25.1 If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

ARTICLE XXVI – GOVERNING LAW

Section 26.1 The validity, performance and all matters relating to the effect of this Code and any amendment hereto shall be governed by the laws (without reference to choice of law) of the State of Illinois.

ARTICLE XXVII – INCORPORATION OF FINDINGS AND APPENDICES

Section 27.1 The findings stated in and all appendices to the Ordinance adopting this Code are incorporated into and constitute part of this Code.

ARTICLE XXVIII – PERFORMANCE BONDS

Section 28.1 Upon becoming a Licensee under this Code, Licensee shall provide to Utility a performance bond in an amount that is equal to **One Hundred Dollars (\$100.00)** per Licensee Pole Attachment, and **One Hundred Dollars (\$100.00)** per linear feet of Conduit occupied, which amounts shall be adjusted accordingly on an annual basis to account for additions or reductions in the total number of Licensee's Pole Attachments and use of Conduit. The bond shall be with an entity and in a form acceptable to Utility. The purpose of the bond is to ensure Licensee's performance of all of its obligations under this Code and for the payment by Licensee of any claims, liens, taxes, liquidated damages, penalties and fees due to Utility which arise by reason of the construction, operation, maintenance or removal of Licensee's Communications Facilities on or about Utility's Poles or Conduit System.

(Ord. No. 1077; 10-19-04)

APPENDIX A

POLE ATTACHMENT FEES AND CHARGES

Effective Date 10/19/04

1. Annual Pole Attachment Fee: \$18.80 per attachment/per year

[Select among one of the two options below]

The Annual Attachment Fees shall be adjusted annually by any change in the Index now known as "United States Bureau of Labor Statistics, Consumer Price Index – All Urban Consumers, base period 1982-84 = 100, (CPI-U)," hereinafter referred to as the "Index". The parties agree that the April 2004 Index is 2%.

2. Non-Recurring Fees:

One-time License Agreement Fee	\$0.00
Permit Application Fee (1-50 Poles)	\$50.00 per Permit Application
Permit Application Fee (51 or more Poles)	\$5.00 per Permit Application
Make Ready Work Charges	See Article III of Agreement
Miscellaneous Charges	See Article III of Agreement [or Attach Fee Schedule for Work Performed for the Licensee]
Inspection Fees	See Article III of Agreement

Note: Permit Application and Riser/Enclosure fees may be adjusted periodically, but not more often than annually, to reflect increases in operating costs.

3. Unauthorized Attachment Penalty Fee
(3 x annual attachment fee, per occurrence)
4. Failure to timely transfer, abandon or remove facilities penalty
(1/5 annual attachment fee per day, per pole first 30 days)
(annual attachment fee per day, per pole, second 30 days)
(annual attachment fee per day, per pole, after 60 days)

CONDUIT FEES AND CHARGES

- 1. Annual Conduit Rental Fee: \$1.00 per linear foot/per year

The Annual Conduit Fee shall be adjusted annually up or down in proportion to any change over time in the Handy-Whitman Index for Electric Utility Construction Cost for the Mid-Central Region of the United States for Federal Energy Regulatory Account Number 364, Poles, Towers and Fixtures.

- 2. Non-Recurring Fees:

One-time License Agreement Fee	\$0.00
Permit Application Fee (1-100 feet of conduit)	\$50.00 per Permit Application
Permit Application Fee (100 or more feet of conduit)	\$5.00 per Permit Application
Make Ready Work Charges	See Article III of Agreement
Miscellaneous Charges	See Article III of Agreement [or Attach Fee Schedule for Work Performed for the Licensee]
Inspection Fees	See Article III of Agreement

Note: Permit Application fees may be adjusted periodically, but not more often than annually, to reflect increases in operating costs.

- 3. Unauthorized Conduit Usage Penalty Fee
(3 x annual, per occurrence)
- 4. Failure to timely transfer, abandon or remove facilities penalty
(1/5 annual conduit fee per day, per linear foot first 30 days)
(annual conduit fee per day, per linear foot, second 30 days)
(annual conduit fee per day, per linear foot, after 60 days)

APPENDIX B

POLE ATTACHMENT PERMIT APPLICATION PROCESS

The following procedure is to be followed by each Licensee seeking to make new Attachments on Utility's Poles. Not that no entity may make any Attachments to Utility's Poles without having first entered into a binding Pole Attachment Licensing Agreement.

1. Licensee shall submit a written request to perform a Pre-Construction Inspection. The request must include a preliminary route description. Licensee shall have a professional engineer participate in a Pre-Construction Inspection, which will include a review of the proposed Attachment(s) to determine the feasibility of the request and identify any potential Make-Ready Work. Appendix F to this Agreement contains the minimum design review information that an applicant must provide and a worksheet for determining the minimum specifications that the proposed Attachment must meet.
2. Following the Pre-Construction Inspection, Licensee shall submit a completed Permit Application (Appendix C) that includes: route map, information required in Appendix F, installation plans and recommendations on Make-Ready Work. Licensee shall prepare the Permit Application in adherence with the Applicable Standards (Section I.B. of Agreement) and specifications (Appendix D). The engineering analysis must be signed and sealed by a professional engineer.
3. The Utility will review the professional engineer's recommendations and discuss any issues with the Licensee.
4. Upon receipt of written authorization, Utility will proceed with Make-Ready Work according to the specific agreed upon installation plans and the terms of the Agreement, including payment for the Make Ready Work charges as set out by Utility and agreed to by the Licensee.
5. Utility will sign and return the Application for Permit authorizing the Licensee to make its Attachment(s) in accordance with agreed upon installation plans.
6. The Licensee's professional engineer shall submit written certification that he has completed the Post-Construction Inspection and that the installation was done in accordance with the provisions of the Permit. The Post-Construction Inspection shall be submitted within **ninety (90) calendar days** after installation is complete.
7. If Utility waives the professional engineer requirement, the Utility will perform the Post-Construction Inspection and charge the Licensee per **Article III** of the Agreement.

APPENDIX C

APPLICATION FOR PERMIT

Application Date: __/__/__

To: [Insert Address of Utility Permitting Department]

Desire to: Attach to Utility Pole(s) Remove Attachment from Utility Pole(s)

Permit No. _____ Superseded Permit No. _____

No. of Poles this permit _____ Sheet 1 of _____

Licensee Name: _____

Address: _____

Contact Person: _____ Title: _____ Phone No. _____

Utility Contact Person: _____ Title: _____ Phone No. _____

Narrative Description of proposed activity:

In accordance with the terms and conditions of the Pole Attachment Licensing Agreement dated _____, application is hereby made for a Permit to attach to and/or vacate Pole(s) in the locations detailed on the attached Route Map(s). Also, attached is documentation as required by Appendix F of the Agreement. The engineer's name, Illinois registration number and phone number are:

Name: _____ Reg. E: _____ Phone No. _____

Permission is hereby granted to Licensee to attach and/or vacate poles listed on the attached Field Data Summary Sheets, subject to payment of the necessary Make-Ready Work charges as set out by Utility and agreed to by the Licensee.

Utilities Appendix "E"

SUBMITTED:

Licensee _____

By _____

Title _____

Date _____

APPROVED:

Utility _____

By _____

Title _____

Date _____

APPENDIX D

SPECIFICATIONS FOR LICENSEE'S ATTACHMENTS

The following engineering and construction practices will be followed by Licensee when making Attachments to Utility Poles.

- A. All attachments shall be made in accordance with the Applicable Standards as defined in the Pole Attachment Licensing Agreement, Article I – Definitions.
- B. Clearances.
1. Attachment and Cable Clearances. Licensee's Attachments on Utility Poles, including metal attachment clamps and bolts, metal cross arm supports, bolts and other equipment, must be attached so as to maintain the minimum separations specified in the National Electrical Safety Code (NESC) and in drawings and specifications Utility may from time to time furnish Licensee. (See Drawings I-1 to I-5)
 2. Service Drop Clearance. The parallel minimum separation between Utility's service drops and communications service drops shall be **twelve (12) inches**, and the crossover separation between the drops shall be **twenty-four (24) inches**. (See Drawing I-4)
 3. Sag and Mid-Span Clearances. Licensee will be particularly careful to leave proper sag in its lines and cables and shall observe the established sag of power line conductors and other cables so that minimum clearances are (a) achieved at poles located on both ends of the span; and (b) retained throughout the span. At mid-span, a minimum of **twelve (12) inches** of separation must be maintained between any other cables. At the pole support, a **twelve (12) inch** separation must be maintained between Licensee and any other connection/attachment. (See Drawing I-4)
 4. Service Clearances. A **four (4) inch** separation shall be maintained between Utility's service cable and/or any other Attaching Entity's facilities located on the customer's private property in accordance with the National Electrical Code (NEC).
 5. Vertical Runs on Poles. All Risers on poles, including those for power feed for TV amplifiers, shall be placed on the quarter faces of the pole and shall be covered by a riser guard with a **two (2) inch** clearance in any direction from cable, bolts, clamps, metal supports and other equipment. Secondary cable providing service to street lights may be covered with non-metallic conduit to allow minimum clearances to communication cables as permitted in the NESC.

Utilities Appendix "E"

6. Climbing Space. A clear Climbing Space must be maintained at all times on the face of the pole. All Attachments must be placed so as to allow and maintain a clear and proper Climbing Space on the face of the Utility Pole. Licensee's cable/wire Attachments shall be placed on the same side of the pole as those of other Attaching Entities. In general, all other Attachments and Risers should be placed on pole quarter faces. (See Drawing I-5)
- C. Down Guys and Anchors
1. Licensee shall be responsible for procuring and installing all anchors and guy wires to support the additional stress placed on the Utility's poles by Licensee's Attachments.
 2. Anchors and guy wires must be installed on each Utility pole where there is an angle or a dead-end occurs. No proposed anchor can be within **four (4) feet** of an existing anchor without written permission of Utility.
 3. Licensee may not attach guy wires to the anchors of the Utility or third party user without the anchor owner's prior written consent.
 4. No Attachment may be installed on a Utility pole until all required guys and anchors are installed, nor may any Attachment be modified, added to or relocated in such a way as will materially increase the stress or loading on Utility poles until all required guys and anchors are installed.
 5. Licensee's down guys shall be bonded to ground wires of the Utility's Pole.
- D. Certification of Licensee's Design
1. The Licensee's Attachment Permit Application must be signed and sealed by a registered professional engineer, certifying that the Licensee's aerial cable design fully complies with the NESC and the Utility's Construction Standards and any other Federal, State or Local codes and/or requirements.
 2. This certification shall include the confirmation that the design is in accordance with pole strength requirements of the NESC, taking into account the effects of the Utility's facilities and other Third Party facilities that exist on the poles.
- E. Miscellaneous Requirements
1. Cable Bonding. Licensee's messenger cable shall be bonded to Utility's pole ground wire at each pole that has a ground wire.
 2. Customer Premises. Licensee's service drop into customer premises shall be protected as required by the most current edition of the NEC.
 3. Communication Cables. All Communications cables/wires not owned by Utility shall be attached within the Communications space that is located **forty (40) inches** below the Utility neutral or the lowest Utility-owned effectively grounded messenger.

Utilities Appendix "E"

4. Riser Installations. All Licensee's Riser installations shall be placed on metal stand-off brackets. (See Drawing I-3)
 5. Tagging. All Licensee's Riser, including all cable, shall be identified with a band type marker or other identification acceptable to Utility at each Attachment. The marker must identify the Licensee.
 6. Safety Zone. No mounting brackets are permitted in the safety zone. The safety zone between communication facilities and supply facilities on the same pole extends horizontally out to the boundaries of the climbing space and working space. The safety zone is measured vertically from the level of the closest surface of the communication facility to the level of the closest surface of the supply facility. The required clearance of the safety zone is measured vertically between the levels of the equipment involved. Stand off bracket installation will not be allowed to meet the **forty (40) inch** clearance requirement. (See Drawing I-5)
- F. Utility Construction Standards
1. Refer to the attached Utility Construction Standards, or obtain the applicable construction standards from the Utility in accordance with the affected Utility's requirements.
 2. Apply the Utility's construction standards in coordination of the applicable NESC, NEC and any other Federal, State or Local code requirements.

APPENDIX E

DRAWINGS

Drawing I-01	(Overhead Minimum Clearance)
Drawing I-02	(Overhead Minimum Clearance)
Drawing I-03	(Power Service)
Drawing I-04	(Minimum Clearance to Service and Roadway)
Drawing I-05	(Attachments at Transformer Poles)

DEFERRED PAYMENT AGREEMENT

Property Address:

Breese, Illinois

Customer Printed Name, Address and Phone:

The undersigned, _____, (hereinafter "Customer") acknowledge and agree that Customer owes the City of Breese (hereinafter "the City") the amount of \$_____ for utility services that are now past due. The past due amounts are for the following period: _____. The amount includes a ten percent (10%) penalty for amounts in default.

Customer understands and acknowledges that the City has the right to disconnect Customer's utility services by reason of Customer's default in payment for such utility service. The City has agreed to allow Customer to avoid disconnection of utility service, because of said default, if Customer agrees to enter into this agreement to cure said default by making payment of past-due amounts in four equal consecutive monthly payments beginning on the date of this agreement.

As consideration for the City's forbearance on its right to disconnect Customer's utility service by reason of Customer's default in payment because of the past-due amounts as stated herein, Customer hereby promises to pay to the order of the City, the amount of _____ (\$_____). Said amount shall be payable as follows:

- A. The first payment in the amount of \$_____ shall be paid on the date of this agreement;
- B. The second payment in the amount of \$_____ shall be due on or before _____ 25th, 20____;
- C. The third payment in the amount of \$_____ shall be due on or before _____ 25th, 20____;
- D. The fourth payment in the amount of \$_____ shall be due on or before _____ 25th, 20____;

Customer further agrees that Customer shall remain current in payment on all utility bills which shall come due and payable during the period of time in which this Deferred Payment Agreement shall be performed.

Customer further agrees and acknowledges that upon any default in the payment terms of this Deferred Payment Agreement or in the event that Customer fails to timely make payment of any utility bill which becomes hereafter due and owing, then the City shall send a Notice to Customer of the default. Said Notice shall be made by the City by first class mail, by personal delivery or by posting notice on the premises receiving the utility services. Said notice shall state that Customer shall have five (5) days from the date of the notice to cure the default in payment. In the event that Customer fails to cure the default in payment by such date, Customer understands and acknowledges that the City shall have the right to disconnect Customer's utility service upon twenty-four (24) hours' notice sent by first class mail, delivered personally or posted on the premises receiving the utility service.

IN WITNESS WHEREOF, this Agreement is executed, sealed and delivered this _____ day of _____, 20__.

CUSTOMER

signature

signature

Accepted by:

The City of Breese, Illinois

By: _____
Charles E. Hilmes, Mayor

REVISED ZONING PAGES

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